



The Planning Inspectorate

The Planning Act 2008

Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Project

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Energy Security and Net Zero

Part 1 – Main Report

Examining Authority

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17 October 2023

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OVERVIEW

File Ref: EN010109

The application, dated 2 September 2022, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 5 September 2022.

The Applicant is Equinor New Energy Limited.

The application was accepted for Examination on 3 October 2022.

The Examination of the application began on 17 January 2023 and was completed on 17 July 2023.

The Proposed Development would comprise the construction and operation of an array of up to 53 wind turbines and their foundations. The combined generating capacity of the Proposed Development would equate to 786 megawatts. Offshore, the Proposed Development would also comprise the construction of up to two offshore transformer substations, a marine connection to the shore, consisting of up to two subsea electrical circuits, an Export Cable Corridor to the proposed landfall at Weybourne of up to 62 kilometres (km) in length increasing by up to an additional 800 metres (m) as it approaches landfall. At landfall, the offshore export cables would be joined to onshore export cables; the onshore cable corridor would be up to 60m wide with a working easement to either side of the cable corridor adding a total of up to 45m. The proposed permanent development area for the Onshore Substation would be located approximately 600m north of the village of Swainsthorpe with the nearest northeast corner approximately 250m south of the Norwich Main National Grid Electricity Transmission Plc 400 kilovolt substation.

Summary of Recommendation:

The Examining Authority recommends to the Secretary of State that development consent cannot be given on the basis of the ExA's findings on the Habitats Regulations Assessment. If however the Secretary of State considers a case for Imperative Reasons of Overriding Public Interest exists and decides to grant development consent, then the Examining Authority recommends that the Order should be in the form attached.

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**ERRATA SHEET – Sheringham Shoal and Dudgeon
Offshore Wind Farm Extension Project [Ref. EN010109]**

**Examining authority’s Report of Findings and Conclusions and
Recommendation to the Secretary of State for the Department of
Energy Security and Net Zero, dated 17 October 2023**

**No amendments or corrections to the Recommendation Report for
the Sheringham and Dudgeon Extension Project were noted by the
Secretary of State for the Department of Energy Security and Net
Zero**

Vol	PDF Page No.	Para	Error	Correction

1. THE PROPOSED DEVELOPMENT

1.1. INTRODUCTION

- 1.1.1. The application for the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Projects (the Proposed Development) was submitted by Equinor New Energies Limited (the Applicant) to the Planning Inspectorate on 5 September 2022 under section (s) 31 of the Planning Act 2008 (PA2008). As the application is for an offshore generating station with a capacity greater than 100 Mega Watts (MW), it is considered a Nationally Significant Infrastructure Project (NSIP) under s14(1)(a) and s15(3) of the PA2008. The application was accepted for Examination under s55 of the PA2008 on 3 October 2022 [PD-001].

1.2. THE PROPOSED DEVELOPMENT

Overview

- 1.2.1. The application is for an Order granting development consent for the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) project. The combined generating capacity of the extensions equates to 786MW.
- 1.2.2. SEP is the proposed extension to the operational Sheringham Shoal Offshore Wind Farm (SOW) and will comprise up to 23 wind turbine generators, together with the associated onshore and offshore infrastructure. The offshore export cable corridor from SEP to landfall will be approximately 40 kilometres (km) in length and the onshore cable corridor will be approximately 60km in length. SEP would be owned and operated by Scira Extension Limited (SEL).
- 1.2.3. DEP is the proposed extension to the operational Dudgeon Offshore Wind Farm (DOW) and will comprise up to 30 wind turbine generators, together with the associated onshore and offshore infrastructure. The offshore export cable corridor from DEP to landfall will be approximately 62km in length and the onshore cable corridor will be approximately 60km in length. DEP would be owned and operated by Dudgeon Extension Limited (DEL).

Site Location

- 1.2.4. The SEP and DEP wind farm sites are 15.8km and 26.5km north of the Norfolk Coast respectively, adjoining their parent operational windfarms. The export cables from the Proposed Development would pass through the Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) on their path towards landfall.
- 1.2.5. Landfall would be at Weybourne, with cables brought ashore using Horizontal Directional Drilling (HDD) underneath the tidal, subtidal, cliff and beach zones to a compound at the Muckleburgh Military Collection. The transition pits would be some 500 metres (m) inland so as to avoid being subject to the effects of coastal erosion on the north Norfolk coast and would sit adjacent to the existing transition pits for the SOW. The land at the Muckleburgh Military Collection is currently maintained as part of a private collection of military equipment and artefacts, opened as a museum to the public including the opportunity to be driven around the site in military vehicles. That use would be able to continue post-construction.

Figure 1: Offshore project areas [APP-086]

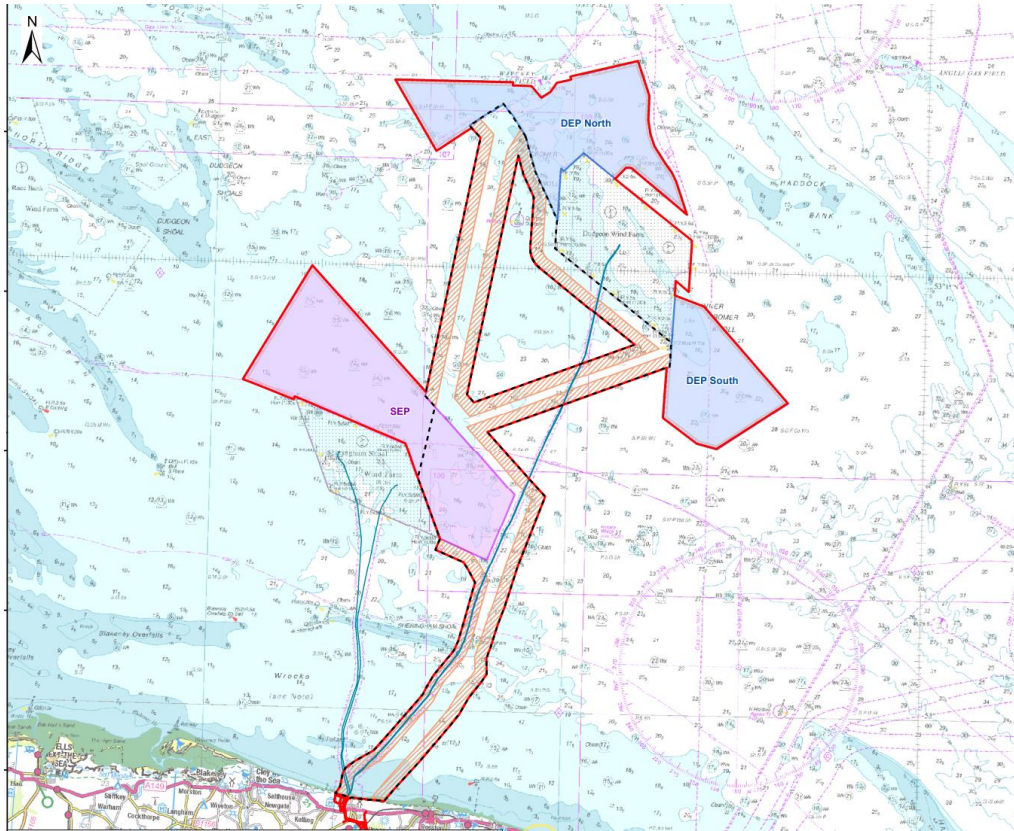
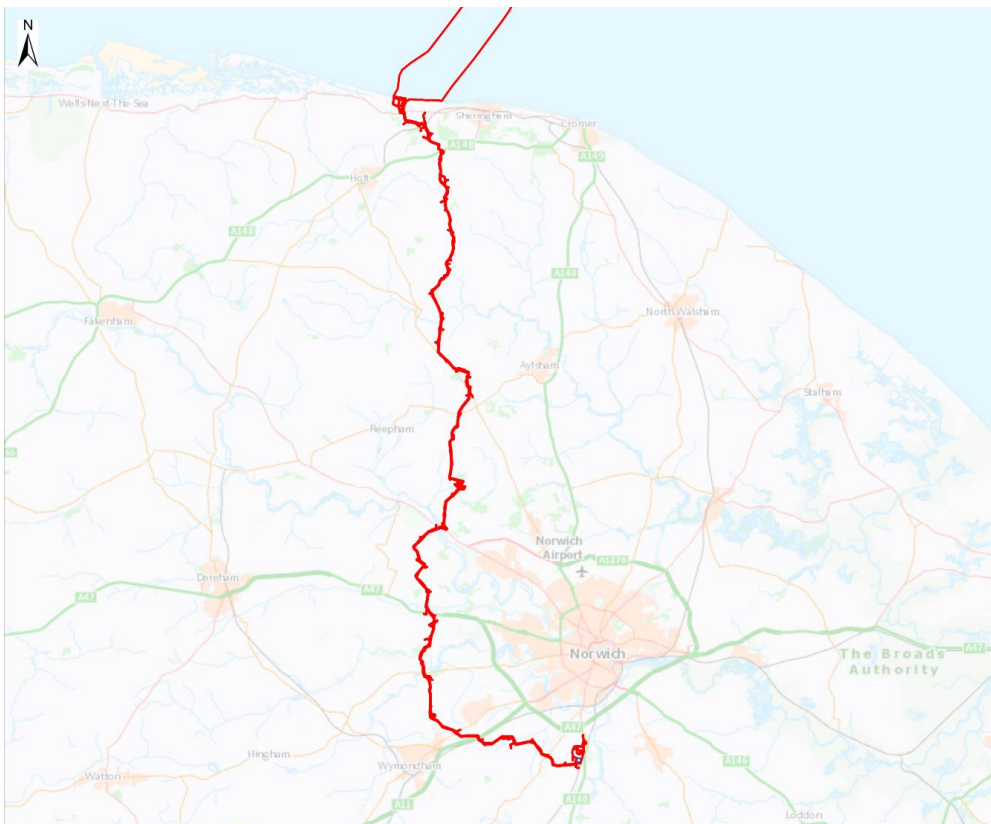


Figure 2: Onshore project areas [APP-086]



1.2.6. From landfall, the cable route would be predominantly south mainly through agricultural land, skirting towns and villages along the route, though routes and accesses for construction traffic would pass through or in close proximity to a number

of these settlements. The cable corridor would then turn to the east passing in between the settlements of Hethersett and Wymondham, before arriving at the National Grid Norwich Main substation adjacent to the A140 and north of Swainsthorpe.

Proposed Development

1.2.7. A total of 53 wind turbine generators would be constructed, with either one or two offshore substation platforms depending on how the Proposed Development is constructed. To this extent, in recognition of the fact that each project is owned by separate companies that are collaborating and co-operating within a single application for development consent, the Order sought by the Applicant provides that the Proposed Development would be delivered in a number of ways as follows:

- 1) Scenario 1 means each project is constructed completely separately and independently of each other in any one of the following ways:
 - the construction of SEP only, where the DEP would not proceed to construction;
 - the construction of DEP only, where the SEP would not proceed to construction;
 - sequential construction of SEP, then DEP, or vice versa; or
 - concurrent construction of Sep and DEP.
- 2) Scenario 2 means that SP and DEP would be constructed sequentially and whichever project is constructed first would install the ducts for the second project.
- 3) Scenario 3 means either SEL or DEL would construct on behalf of both itself and the other project an integrated onshore substation and connection to National Grid's Norwich Main Substation (the relevant works are identified in the Order as the scenario 3 integrated onshore works) and all other onshore and offshore works are constructed either concurrently or sequentially.
- 4) Scenario 4 means either SEL or DEL constructs on behalf of both itself and the other project both the onshore and offshore integrated works including the integrated offshore substation, the integrated onshore substation and the onshore and offshore cables (the relevant works are identified in the Order as the integrated offshore works and scenario 4 integrated onshore works) and all other onshore and offshore works are constructed either concurrently or sequentially.

1.2.8. A proportion of the proposed works, both onshore and offshore, are the same in all Development Scenarios although some would be unique. These are differentiated on the Works Plans [AS-005] [PDA-003] and within Schedule 1 of the draft Development Consent Order (dDCO) [AS-009]. The key offshore components, common to all scenarios, comprise:

- Offshore substation platform/s (OSP);
- Foundation structures for wind turbines and OSP/s; and
- A network of subsea cables comprising infield cables, interlink cables and export cables.

1.2.9. The key onshore components, common to all scenarios, comprise:

- Landfall and associated transition joint bay/s;
- Onshore export cables installed underground from the landfall to the onshore substation and associated joint bays and link boxes;
- Onshore substation and onward 400 kilovolt (kV) connection to the existing Norwich Main substation;

- Trenchless crossing zones (e.g. HDD); Construction and operational accesses; and
- Temporary construction compounds.
- A High Voltage Alternating Current (HVAC) transmission system will be used for the transmission of the power from the wind farm site/s to the onshore substation, as the Applicant is confident that subsea booster stations are not required in this instance.

1.2.10. The application and the proposed Development Scenarios are described in more detail in the Environment Statement (ES) [APP-090] and the Scenarios Statement [APP-314].

Associated Development

1.2.11. The dDCO also makes provision for Associated Development, Further Associated Development and Ancillary Works, as summarised below.

1.2.12. Offshore further associated development would comprise scour protection, cable protection, removal of seabed material and disposal of arisings, cable installation preparation and excavation of HDD exit pits.

1.2.13. Onshore Further Associated Development would comprise works associated with construction onshore, associated mitigation measures, habitat creation and archaeological works. Onshore project substation(s) would be constructed to a size commensurate with whichever Development Scenario is being pursued, with associated water management, bunding and landscape works together with grid connections into the Norwich Main.

Ancillary Works

1.2.14. Ancillary Works would comprise offshore and onshore (in all local authorities) temporary works to facilitate construction and/or maintenance of the authorised development or protect land or structures affected by the authorised development.

1.3. RELEVANT PLANNING HISTORY

1.3.1. SEP and DEP are extensions to existing operational windfarms. They closely follow applications for development consent orders for other offshore windfarms and, consequently, these projects are referred to throughout the Applicant's ES and the Examination. These include the Norfolk Boreas Offshore Wind Farm Order, Norfolk Vanguard Offshore Wind Farm Order and the Orsted Hornsea Project Three Offshore Wind Farm Order, which at various stages cross the proposed onshore cable corridor of the Proposed Development and share a relative proximity to various settlements along the cable route. Numerous references were made to these projects during the Examination, in relation to differing approaches to defining a design envelope, cumulative impacts and mitigation.

1.3.2. An application for the Orsted Hornsea Project Four Offshore Wind Farm was determined by the Secretary of State for Energy Security and Net Zero during the course of the Examination for SEP and DEP, which would have an interactive relationship with the offshore elements of the Proposed Development.

1.3.3. The relevance of Norwich to Tilbury (formerly East Anglia GREEN) NSIP, which would involve the upgrading of the electricity network from Norwich Main substation to Tilbury in Essex, is reported in Chapter 5 of this Recommendation Report.

1.3.4. The onshore cable corridor for the Proposed Development would also cross the Order limits for three development consent orders granted to National Highways

Limited. These are the A47/A11 Thickthorn Junction DCO 2022, the A47 North Blofield to North Burlingham DCO 2022 and the A47 North Tuddenham to Easton DCO 2022. This is discussed further in Chapter 18 of this Recommendation Report.

- 1.3.5. Norfolk County Council is promoting the Norwich Western Link Road Scheme, which would be a new stretch of dual carriageway connecting the A1270 or the A47 west of Norwich. No planning application or decision material to the consideration of the Proposed Development was submitted or determined during the course of the Examination.

1.4. THE STRUCTURE OF THIS RECOMMENDATION REPORT

- 1.4.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the Application, the proposed development, its site and surroundings as well as the planning history and that of related project.
- **Chapter 2** describes the process of the Examination including key decisions that were taken during its course.
- **Chapter 3** sets out the policy and legislative framework that is relevant for the assessment of the effects of the Proposed Development, the Examination, and decision-making.
- **Chapter 4** sets out the principal issues that arose from the Application and during the Examination, and sets out the ExA's approach to overarching matters.
- **Chapters 5 to 28** sets out the balance of planning considerations arising from Chapter 4, in the light of important and relevant factual, legal and policy considerations.
- **Chapter 26** contains matters pertinent to the Habitats Regulation Assessment.
- **Chapter 27** provides the ExA's conclusions on the case for Development Consent
- **Chapter 28** sets out the ExA's examination of Compulsory Acquisition (CA) and Temporary Possession (TP) proposals.
- **Chapter 29** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- **Chapter 30** summarises the overall conclusion and sets out the recommendation.

- 1.4.2. This report is supported by the following Appendices:

- **Appendix A** – Examination Method, Procedure and Events.
- **Appendix B** – the Examination Library.
- **Appendix C** – List of Abbreviations.
- **Appendix D** – The Recommended Order or other decision support material

2. THE EXAMINATION

2.1. APPOINTMENT OF THE EXAMINING AUTHORITY

2.1.1. On 19 October 2022, the Examining Authority (ExA) was appointed under Section (s) 61 and s65 of the Planning Act 2008 (PA2008), consisting of Menaka Sahai (Lead Member of the Panel), Jonathan Manning, David Wallis, Christine Fraser and Deborah McCann. On 8 December 2022, Rod MacArthur and Steven Rennie were appointed to the ExA following the resignations from the panel of Christine Fraser and Deborah McCann [PD-005].

2.2. THE PERSONS INVOLVED IN THE EXAMINATION

2.2.1. The persons involved in the Examination were:

- persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP;
- affected Persons (APs) who were affected by a compulsory acquisition (CA) and / or temporary possession (TP) proposal made as part of the Application and objected to it at any stage in the Examination; and
- other Persons, who were invited to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

2.2.2. Following acceptance of an application for examination, an Applicant is required to notify certain persons of the application and make them aware of the opportunity to submit RRs, under s56 of PA2008. The Applicant invited parties to submit RRs to the Planning Inspectorate for a six-week period between 14 October and 14 November 2022 [OD-004]. The Applicant then submitted confirmation this notification has been completed as required under s58 of the PA2008. In this case, the Applicant submitted its certificate under s58 of the PA2008 to the Planning Inspectorate confirming that it had complied with the notification requirements on 15 November 2022.

2.2.3. However, the Applicant subsequently informed the ExA that Mulbarton Parish Council had been omitted in error. In addition, the Applicant highlighted a number of non-statutory stakeholders who had been contacted in the pre-application phase out of courtesy, but subsequently not informed of the application submission. The ExA wrote to these omitted parties on 21 December 2022 [PD-007] [PD-008] inviting statements of representation from them and inviting them to the Preliminary Meeting, attending with Other Person status. Notwithstanding the ExA's letters to Mulbarton Parish Council and non-statutory stakeholders, as reported in, there were no requests to join the Examination by persons who were not already IPs at or after the PM. Statements of representation were however accepted from Jonas Seafood Limited [AS-037] and from Perenco UK Limited [AS-038].

2.3. THE EXAMINATION AND PROCEDURAL DECISIONS

2.3.1. The Examination began on 17 January 2023 and concluded on 17 July 2023. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

The Preliminary Meeting

- 2.3.2. On 13 December 2022, the ExA wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) and early Hearings [PD-006], outlining:
- the arrangements and agenda for the PM;
 - an Initial Assessment of the Principal Issues (IAP);
 - the draft Examination Timetable;
 - notification of hearings to be held in the early stage of the Examination;
 - the ExA's procedural decisions;
 - availability of RRs and application documents; and
 - details of Accompanied Site Inspections (ASI).
- 2.3.3. The PM took place on 17 January 2023 at Blackfriars Hall, Norwich NR3 1AU. A video recording [EV-006], [EV-007] and a note of the meeting [EV-008] were published on the Planning Inspectorate National Infrastructure website¹.
- 2.3.4. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-009], dated 27 January 2023.

Key Procedural Decisions

- 2.3.5. The procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. The decisions can be obtained from the Rule 8 Letter [PD-009] and so there is no need to reiterate them here.
- 2.3.6. Within the Examination period the Applicant submitted two change requests [REP2-001a] [AS-045]. The ExA decided to accept for Examination the Applicant's first and second change request [PD-013] [PD-014] under Rule 9 of the EPR on 17 April 2023 and these were included in the Examination. Full details of these change requests and the ExA's reasoning in accepting these requests are set out in Chapter 4 of this Recommendation Report.
- 2.3.7. The second change request [AS-025 to AS-045] included additional land within the Order limits and triggered Regulations 4 and 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations). To enable these changes to be properly examined in accordance with the requirements of the CA Regulations, on 30 May 2023 under Rule 8(3) of the EPR, the ExA varied the Examination Timetable [PD-019] to include:
- the insertion of a new Deadline (D) 6 to allow for submissions of responses to RRs on the material change request, and receipt of Written Representations on the material change to the Proposed Development;
 - the renumbering of subsequent D 7 and D8, with changes to the lists of documents expected to be submitted for them; and
 - a date for issue of fourth written questions.
- 2.3.8. The Rule 8(3) letter also included notification to hold an Issue Specific Hearing (ISH) in line with CA Regulation 14 and the potential for a further Compulsory Acquisition

¹ [Sheringham and Dudgeon Extension Projects | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://planninginspectorate.gov.uk)

Hearing (CAH) 2 and Open Floor Hearing (OFH) 3 in line with CA Regulations 15 and 16, if required.

Site Inspections

- 2.3.9. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.
- 2.3.10. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, and Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection, an ASI is held.
- 2.3.11. The ExA held the following USIs [EV-094]:
- USI1 was held over three days between 1-3 November 2022. The ExA traced the proposed route of the onshore cable corridor from landfall at Weybourne through various villages then arriving at the site of the proposed onshore substation. A note to describe the site visit details in full over these three days, including locations, timings and conditions, has been published [EV-001].
 - USI2 was on held on 16 January 2023. The ExA visited Weybourne and Norwich Main Substation, walking on local roads and footpaths to observe local views and ground conditions. Details of this site visit is contained within the published note [EV-027].
 - USI3 was held on 30 March 2023. This was a dusk and night-time based visit to observe the existing offshore wind farms from places specified in the Applicant's seascape assessments. Site visit locations include the North Norfolk coast near such destinations as Trimmingham and Salthouse Beach. Details of this visit are in the published note [EV-027a].
 - USI4 was held on 20 June 2023. This visit focused on proposed accesses ACC60 (B1172) and ACC46 (A47) in particular. Details of this visit are in the published note [EV-094].
- 2.3.12. The ExA held the following ASIs:
- ASI1 was held on 19 January 2023, with the ExA afforded entry onto private land pertaining to Sheringham Hall, the proposed landfall at Muckleburgh Military Collection, Weybourne Woods, and where the cable corridor crosses the River Tiffey amongst others. Full details are set out in the published itinerary [EV-004].
 - ASI2 was held on 24 March 2023 with the ExA taken to locations the National Grid Norwich Main complex and around the village of Oulton, amongst others. Full details are set out in the published itinerary [EV-028].
- 2.3.13. The ExA has had regard to the information and impressions obtained during its site inspections and this is reported in relevant Chapters of this Recommendation Report.

Hearing Processes

- 2.3.14. Hearings are held in PA2008 Examinations to respond to specific requests from persons who have a right to be heard. This includes APs affected by CA and TP proposals who object and request to be heard at a CA Hearing (CAH) under s92 of the PA2008. IPs may request to be heard at an Open Floor Hearing (OFH) under s93 of the PA2008. The ExA may also hold an ISH under s91 of the PA2008 to

address matters where the ExA considers that a Hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.

- 2.3.15. The ExA held a number of Hearings to ensure the thorough examination of the issues raised by the Application. These are set out in the following tables:

Table 1: Details of OFHs held

Hearing Title	Date	EL Reference
OFH1	17 January 2023	Agenda [EV-002]
		Recording [EV-009]
		Transcript [EV-010]
OFH2	29 March 2023	Agenda [EV-032]
		Recording [EV-074]
		Transcript [EV-075]

- 2.3.16. All IPs were provided with an opportunity to be heard on any important and relevant matters that they wished to raise, with OFH2 available for those individuals wishing to respond to the Applicant’s change requests.

Table 2: Details of CAHs held

Hearing Title	Date	EL Reference
CAH1	29 March 2023	Agenda [EV-031]
		Recording [EV-066 to EV-069]
		Transcript [EV-070 to EV-073]
CAH2	22 June 2023	Agenda [EV-093]
		Recording [EV-103 to EV-104]
		Transcript [EV-105 to EV-106]

- 2.3.17. The ExA held two CAHs during the Examination. All parties affected by CA and TP proposals were provided with an opportunity to be heard and the ExA also used these Hearings to examine the Applicant’s case for CA and TP in the round.

- 2.3.18. The ExA held seven ISHs for the Proposed Development and all were in-person events with the option for IPs to join virtually. All Hearings were live streamed via the Planning Inspectorate's project webpage on the National Infrastructure website. ISHs were held on various subject matters, and each included relevant questions on the dDCO.

Table 3: Details of ISHs held

Hearing Title	Date	EL Reference
ISH1	18 January 2023	Agenda [EV-003]
		Recording [EV-011 to EV-014]
		Transcript [EV-015 to EV-018]
ISH2	20 January 2023	Agenda [EV-005]
		Recording [EV-019 to EV-022]
		Transcript [EV-023 to EV-026]
ISH3	22 March 2023	Agenda [EV-029]
		Recording [EV-035 to EV-039]
		Transcript [EV-040 to EV-044]
ISH4	23 March 2023	Agenda [EV-030]
		Recording [EV-057 to EV-060]
		Transcript [EV-061 to EV-064]
ISH5	30 March 2023	Agenda [EV-033]
		Recording [EV-076 to EV-079]
		Transcript [EV-080 to EV-083]
ISH6	31 March 2023	Agenda [EV-034]
		Recording [EV-084 to EV-087]
		Transcript [EV-088 to EV-091]
ISH7	21 June 2023	Agenda [EV-092]
		Recording [EV-095 to EV-098]
		Transcript [EV-099 to EV-102]

Written Processes

2.3.19. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B) and published online. Individual document references to the Examination Library in this report are enclosed in square brackets [] which can be found on the project webpage of the Nation Infrastructure website (project webpage).

2.3.20. For this reason, this Recommendation Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in

the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.

2.3.21. Key written sources are set out further below.

Relevant Representations

2.3.22. From the initial period for receipt of RRs in Autumn 2022, 124 RRs were received by the Planning Inspectorate [RR-001 to RR-124].

2.3.23. In response to the Applicant's subsequent change requests, six RRs in response to the change requests were received: [RR-041CR] (Historic England), [RR-045CR] (Anglian Water), [RR-060CR] (National Highways), [RR-064CR] (Norfolk County Council), [RR-118CR] (UKHSA) & [RR-125CR] (Coal Authority). All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in subsequent Chapters of this Recommendation Report.

Written Representations and Other Examination Documents

2.3.24. The Applicant, IPs and Other Persons were provided with opportunities to make:

- Written Representations (WRs);
- comment on WRs made by the Applicant and other IPs;
- summarise their oral submissions at Hearings in writing;
- make other written submissions requested or accepted by the ExA; and
- comment on documents issued for consultation by the ExA including:
 - a Report on Implications for European Sites (RIES) [PD-020]; and
 - a commentary on the draft Development Consent Order (dDCO) [PD-018].

2.3.25. All WRs and other Examination documents have been fully considered by the ExA. The issues that they raise are considered in subsequent Chapters of this Recommendation Report.

Written Questions

2.3.26. The ExA issued four rounds of written questions:

- 1) First Written Questions (WQ1) [PD-010] were issued on 27 January 2023.
- 2) Second Written Questions (WQ2) [PD-012] were issued on 12 April 2023.
- 3) Third Written Questions (WQ3) [PD-017] were issued on 26 May 2023.
- 4) Fourth Written Questions (WQ4) [PD021] were issued on 29 June 2023.

2.3.27. A request for further information and comments under Rule 17 of the EPR (Rule 17 letter) was issued on 12 July 2023 [PD-022].

2.3.28. All responses to the ExA's written questions, proposed changes to the dDCO and Rule 17 letters have been considered and reported on in relevant Chapters of this Recommendation Report.

Local Impact Report(s)

2.3.29. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 PA2008.

2.3.30. LIRs have been received by the ExA from the following local authorities:

- 1) Broadland District Council [REP1-066 to REP1-071].
- 2) East Suffolk Council [REP1-076].
- 3) Norfolk County Council [REP1-080].
- 4) North Norfolk District Council [REP1-082].
- 5) South Norfolk Council [REP1-090 to REP1-101].

2.3.31. The LIRs have been taken fully into account by the ExA in all relevant Chapters of this Recommendation Report.

Statements of Common Ground

2.3.32. A Statement of Common Ground (SoCG) is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them.

2.3.33. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:

- 1) Anglian Water [REP5-060] [REP7-059]
- 2) Broadland District Council [REP1-042] [REP7-042]
- 3) East of England Ambulance Service NHS Trust [REP8-086]
- 4) Eastern Inshore Fisheries Conservation Authority [REP8-046]
- 5) Environment Agency [REP1-043] [REP8-029]
- 6) Historic England [REP7-060]
- 7) Marine Management Organisation [REP1-044] [REP8-030]
- 8) Ministry of Defence [REP1-051] [REP7-046]
- 9) National Farmers Union [REP5-061] [REP8-049]
- 10) National Highways [REP1-050] [REP8-033]
- 11) National Trust [REP2-046] [REP8-044]
- 12) Natural England (covering offshore matters and HRA derogation) [REP8-032]
- 13) Natural England (covering onshore matters) [REP8-031]
- 14) Norfolk County Council [REP2-033] [REP8-056]
- 15) Norfolk Wildlife Trust [REP4-026] [REP8-048]
- 16) North Norfolk District Council [REP8-045]
- 17) Norwich Airport [REP5-047] [REP8-047]
- 18) Norwich Western Link [REP8-051]
- 19) South Norfolk Council [REP4-018] [REP7-041]
- 20) Trinity House [REP1-049] [REP7-044]
- 21) UK Chamber of Shipping [REP2-047] [REP7-055]

2.3.34. There was one SoCG submitted in respect of the Maritime and Coastguard Agency, but this remained in draft form and unsigned at the end of the Examination [REP1-045]. The SoCGs have been taken fully into account by the ExA in all relevant Chapters of this Report.

Requests to Join and Leave the Examination

2.3.35. The ExA received no requests to join the Examination. During the Examination, as a consequence of discussion at Hearings and/or discussions between relevant IPs/APs/Other Persons and the Applicant, the following persons wrote to the ExA to inform it that their issues were settled, and their representations were withdrawn:

- Frontier Power Limited on behalf of Blue Transmission Sheringham Shoal Limited withdrew its RR [RR-034].
- Cadent Gas Limited withdrew its objection once appropriate Protective Provisions (PP) had been agreed [REP8-085].

- Vattenfall Wind Power Limited, on behalf of Norfolk Boreas and Norfolk Vanguard, withdrew its objection once appropriate PP had been agreed [REP8-122].

2.4. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 2.4.1. By the end of the Examination, no formal undertakings, obligations or agreements between the Applicant and IPs had been submitted to the ExA for consideration. Private agreements and Co-operation Agreements were being negotiated outside of the Examination, some of which led to the withdrawal of objections as set out above.

2.5. OTHER CONSENTS

- 2.5.1. The Applicant has listed all other necessary consents the Proposed Development must obtain in addition to Development Consent under PA2008. These are set out in [APP-286]. The latest position on these other consents and licences is not known, although Letters of No Impediment were submitted to the Examination [APP-214], which are considered further in Chapter 21 of this Recommendation Report.

3. LEGAL AND POLICY CONTEXT

3.1. INTRODUCTION

3.1.1. This chapter sets out the relevant policies and principal international and domestic legislation which was taken into account by the Examining Authority (ExA) in carrying out its Examination of this Proposed Development and in making its findings and recommendations to the Secretary of State for Net Zero and Energy Security (SoS) as the relevant decision maker for a renewable energy Nationally Significant Infrastructure Project (NSIP) Development Consent Order (DCO) application under section (s) 14 of the Planning Act 2008 (as amended) (PA2008).

3.1.2. The Applicant's Environmental Statement, Chapter 2: Policy and Legislative Context [APP-088] outlines the international, national, regional and local legal and policy contexts to which the Applicant has had regard. The Applicant's Planning Statement also sets out key planning policies relating to the Proposed Development [APP-285].

3.2. THE PLANNING ACT 2008

3.2.1. The PA2008 is the governing legislation for the development consent decision for this application.

3.2.2. Given that there are National Policy Statements (NPS) in effect in relation to the Proposed Development, the decision on the application must be made pursuant to s104 of PA2008 where an NPS has effect.

3.2.3. Under s104, the matters that the SoS must consider are:

- any NPS which has effect in relation to development of the description to which the application relates;
- the appropriate marine policy documents (if any), determined in accordance with s59 of the Marine and Coastal Access Act 2009;
- any local impact report (within the meaning given by s60(3) of the PA2008) submitted to the SoS before the specified deadline for submission;
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters which the SoS thinks are both important and relevant to the decision.

3.2.4. PA2008 s104(3) requires the SoS to decide the application in accordance with any relevant NPS, creating a presumption in favour of NPS compliant development except to the extent that one or more of the exceptions in subsections (4) to (8) apply. The exceptions are as follows and apply if the SoS is satisfied that:

- deciding the application in accordance with any relevant NPS would lead to the United Kingdom being in breach of any of its international obligations;
- deciding the application in accordance with any relevant national policy statement would lead to the SoS being in breach of any duty imposed on them by or under any enactment;
- deciding the application in accordance with any relevant national policy statement would be unlawful by virtue of any enactment;
- the adverse impact of the proposed development would outweigh its benefits; and/or
- any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

3.3. NATIONAL POLICY STATEMENTS (NPS)

- 3.3.1. The relevant NPSs for decision-making on this Proposed Development are:
- The Overarching NPS for Energy (NPS EN1);
 - NPS for Renewable Energy Infrastructure (NPS EN3); and
 - NPS for Electricity Networks (NPS EN5).
- 3.3.2. The NPS for Ports (Department for Transport, 2012) also provides important and relevant information where applicable.
- 3.3.3. The suite of NPSs for energy are in the process of review. Drafts were published in in November 2021 and May 2023. The revised NPSs are not yet designated, though may be considered important and relevant to decision-making.
- 3.3.4. The implications of national policy are considered in subsequent chapters of this Recommendation Report and under s104 in the recommendations to the SoS.

3.4. MARINE AND COASTAL ACCESS ACT 2009 (MCAA)

- 3.4.1. The MCAA introduced the production of marine plans and designation of Marine Conservation Zones (MCZs) in UK waters, as well as establishing the Marine Management Organisation (MMO). The primary aim of MCZs is to deliver the Government's vision for an 'ecologically coherent network of Marine Protected Areas (MPAs)' across the UK and to ensure the health of the wider UK marine environment. NPS EN1 states that decision-makers are bound by the duties imposed by sections 125 and 126 of the MCAA2009.
- 3.4.2. Section 125 of MCAA2009 requires all public authorities to exercise their functions in a manner to best further (or, if not possible, least hinder) the conservation objectives of a MCZ. Section 126 also requires them to consider the effect of proposed activities on a MCZ before giving authorisation and imposes restrictions on activities that may have a significant risk of hindering its conservation objectives.
- 3.4.3. Additionally, the Marine Policy Statement 2011 requires decision-makers to take account of how developments will impact on the aim to halt biodiversity loss and the legal obligations relating to all MPAs, including MCZs.
- 3.4.4. The East Inshore Marine Plan applies to the landfall and offshore cable corridor from mean high water out to 12 nautical miles; the East Offshore Marine Plan applies to the remainder of the export cable corridor and offshore wind farm (OWF) infrastructure. The East Inshore and East Offshore Marine Plans 2016 also require cumulative impacts to be addressed (policy ECOL1), appropriate weight to be attached to marine biodiversity (policy BIO1), enhancement of biodiversity and geological interests where appropriate (policy BIO2) and consideration of the overall effects on MPAs to ensure that an ecologically coherent network is maintained (policy MPA1). FISH1 requires that within areas of fishing activity, proposals should demonstrate a preference that they will not prevent fishing activities on, or access to, fishing grounds; and FISH2 requires that proposals should, as a preference, not have an adverse impact upon spawning and nursery areas and any associated habitat.
- 3.4.5. Relevant matters are reported throughout this Recommendation Report.

3.5. UK LAW AND REGULATIONS

The Environment Impact Assessment (EIA) Directive

- 3.5.1. The EIA Directive (85/337/EEC) defines the procedure by which information about the environmental effects of a project is collected and considered by the relevant decision-making body before consent is granted for a development.
- 3.5.2. The Directive is transcribed into the law of England and Wales under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the 2017 EIA Regulations), which came into force on 16 May 2017, which applies to the Proposed Development.

The Habitats Directive

- 3.5.3. EU Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora (the Habitats Directive), is a European nature conservation policy measure. It provides for a network of protected sites, now incorporated for the UK into the National Site Network, and a system of species protection.
- 3.5.4. Under the terms of the Bern Convention and the Convention of Biological Diversity the European Union (EU) and the UK have obligations to conserve a range of natural habitats and associated flora and fauna. These obligations are met through the Habitats Directive. This requires the identification and designations of Special Areas of Conservations for habitats that are listed in Annex I and species that are listed in Annex II (which are referred to as 'European protected species').
- 3.5.5. Relevant matters are reported in Chapters 7, 21 and 26 of this Recommendation Report.

The Birds Directive

- 3.5.6. The EU and the UK have obligations for the protection of wild birds and their habitats as agreed under the Ramsar Convention, Bern Convention and Bonn Convention. These obligations, together with more general duties, are met through Directive 2009/147/EC on the conservation of wild birds (the Birds Directive). This requires the identification and designation of Special Protection Areas, which have now been incorporated into nationally protected sites.
- 3.5.7. Relevant matters are reported in Chapters 7 and 26 of this Recommendation Report.

The Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017

- 3.5.8. In England and Wales the Conservation of Habitats and Species Regulations 2017, as amended, (SI 2017/1012) (the Habitats Regulations) consolidated earlier legislation and transposed the obligations of the Habitats Directive and the Birds Directive into domestic legislation.
- 3.5.9. The Habitats Regulations and the Conservation of Offshore Marine Habitats and Species Habitats and Species Regulations 2017 as amended (the Offshore Marine Regulations) govern the assessment processes that must be undertaken in relation to European sites and Ramsar sites and the Proposed Development, referred to as Habitats Regulations Assessment (HRA). The Secretary of State as the decision maker is the competent authority for the HRA.
- 3.5.10. On 24 February 2021, the Department for the Environment, Food and Rural Affairs (Defra) published the guidance, 'Habitats regulations assessments: protecting a European site' to assist competent authorities, and the Examining Authority has had regard to this in preparing this Report for the Secretary of State.

- 3.5.11. The protected sites relevant to this process are those protected by the Habitats Regulations (Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Sites of Community Importance) and candidate Special Areas of Conservation and those given equivalent status by national planning policy (possible SACs, potential SPAs, listed Ramsar sites and proposed Ramsar sites for which the UK is responsible). Areas secured as sites compensating for damage to a European site also require a HRA under Government policy.
- 3.5.12. Chapter 26 of this Recommendation Report sets out full details of the HRA that would be required for the Proposed Development and provides conclusions against the relevant regulations for the SoS consideration.

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

- 3.5.13. These Regulations came into force in December 2020 and reflect the arrangements in light of the UK's departure from the EU. This includes the introduction of new terminology with reference to the National Site Network rather than the Natura 2000 Network, which remains the collective term for sites in the EU.
- 3.5.14. Relevant matters are reported in Chapters 8 and 26 of this Recommendation Report.

The Renewable Energy Directive (2009)

- 3.5.15. The Renewable Energy Directive (2009/28/EC) and associated targets, primarily transposed into UK law through The Promotion of the Use of Energy from Renewable Sources Regulations 2011.

The Water Framework Directive (WFD)

- 3.5.16. Directive 2000/60/EC established a framework for community action in the field of water policy (the WFD) which includes objectives such as preventing and reducing pollution, environmental protection, improving aquatic ecosystems and mitigating the effects of floods. It provides for the production of River Basin Management Plans to provide for the sustainable management of rivers.
- 3.5.17. The WFD is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.
- 3.5.18. Relevant matters are reported in Chapter 22 of this Recommendation Report.

The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2017

- 3.5.19. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2017 transpose Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) and Council Directive 2009/147/EC on the conservation of wild birds (Birds Directive) into national law. These regulations apply to the UK's offshore marine area which covers waters beyond 12 nautical miles (nm), within British Fishery Limits and the seabed within the UK Continental Shelf Designated Area.
- 3.5.20. Relevant matters are reported in Chapters 8 and 26 of this Recommendation Report.

Ramsar Convention 1971

3.5.21. Ramsar sites comprise wetlands of international importance which are listed under the Ramsar Convention which resulted from the Convention on Wetlands of International Importance held in Ramsar, Iran in 1971. The main aim of the convention is the conservation and wise use of all wetlands as a contribution towards achieving global sustainable development goals.

3.5.22. Relevant matters are reported in Chapter 26.

Air Quality Directive and UK Air Quality Strategy

3.5.23. Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe entered into force on 11 June 2008. It set limit values for compliance and establishes control actions where the LVs are exceeded for ambient air quality with respect to sulphur dioxide, nitrogen dioxide and mono-nitrogen oxides, particulate matter (PM10 and PM2.5), lead, benzene and carbon monoxide.

3.5.24. The Air Quality Standards Regulations 2010 give direct statutory effect to the Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.

3.5.25. The UK Air Quality Strategy establishes the UK framework for air quality improvements. The UK Air Quality Strategy establishes a long-term vision for improving air quality in the UK and offers options to reduce the risk to health and the environment from air pollution. Individual plans prepared beneath its framework provide more detailed actions to address LV exceedances for individual pollutants. In turn, these plans set the framework for action in specific local settings where LV exceedances are found, including the designation of Clean Air Zones and more localised Air Quality Management Areas (AQMA) where Air Quality Management Plans are prepared by local authorities.

3.5.26. Relevant matters are reported in Chapter 24 of this Recommendation Report.

3.6. OTHER LEGAL PROVISIONS

United Nations Environmental Programme Convention on Biological Diversity 1992

3.6.1. Responsibility for the UK contribution to the United Nations Environment Programme (UNEP) Convention on Biological Diversity lies with the DEFRA which promotes the integration of biodiversity into policies, projects and programmes within Government and beyond.

3.6.2. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the UNEP Convention on Biological Diversity 1992 has been taken into account in consideration of the likely impacts of the Proposed Development and of appropriate objectives and mechanisms for mitigation and compensation. The provisions on EIA and transboundary matters with regard to impacts on biodiversity referred to in this Chapter, satisfies the requirements of Article 14 of the Convention (Impact Assessment and Minimizing Adverse Impacts).

The Wildlife and Countryside Act 1981 (WACA1981)

3.6.3. The WACA1981 is the primary legislation which protects animals, plants, and certain habitats in the UK. It provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs). In England, these sites are identified for their flora, fauna,

geological or physiographical interest by Natural England (NE). WACA1981 contains measures for the protection and management of SSSIs.

- 3.6.4. The WACA1981 is divided into four parts: Part I relating to the protection of wildlife, Part II relating to designation of SSSIs and other designations, Part III on public rights of way and Part IV containing miscellaneous provisions. If a species protected under Part I is likely to be affected by development, a protected species licence will be required from NE.
- 3.6.5. WACA1981 is relevant to the application in view of the sites and species identified in Chapter 21 of the Environmental Statement (ES).

Paris Agreement 2015

- 3.6.6. The 21st Conference of the Parties to the United Nations Framework Convention on Climate Change Paris Agreement was ratified in November 2016 in the UK. The agreement is a legal instrument that provides a framework for governments as well as business and investors to keep global warming well below 2°C, pursuing efforts to limit the temperature increase to 1.5°C.

Climate Change Act 2008 (CCA2008)

- 3.6.7. The CCA2008 (as amended) establishes statutory climate change projections and carbon budgets. A 2019 revision to the Act sets a target of achieving 'net-zero' emissions by 2050. The target in the Act was substantively amended from 80% of baseline emissions by 2050 to 100% reduction (net zero) emissions by the CCA2008 (2050 Target Amendment) Order 2019. The sixth carbon budget for the next period to 2037 was published on 9 December 2020. No legislated carbon budget exists beyond that date.
- 3.6.8. Relevant matters are reported in Chapter 26 of this Recommendation Report.

National Parks and Access to the Countryside Act 1949

- 3.6.9. The National Parks and Access to the Countryside Act 1949 provides the framework for the establishment of National Parks and Areas of Outstanding Natural Beauty. It also establishes powers to declare National Nature Reserves and for local authorities to establish Nature Reserves. The Act is relevant to the application because the onshore cable route would pass through an Area of Outstanding Natural Beauty.
- 3.6.10. Relevant matters are reported in Chapter 23 of this Recommendation Report.

Natural Environment and Rural Communities Act 2006

- 3.6.11. This Act makes provision for bodies concerned with the natural environment and rural communities, including in connection with wildlife sites and SSSIs. It includes a duty that every public body must, in exercising its functions have regard, so far as it consistent with the proper exercising of those functions, to the purpose of biodiversity. In complying with the biodiversity duty, regard must be had to the UNEP Convention on Biological Diversity.
- 3.6.12. We have had regard to this legislation and the biodiversity duty in Chapters 8, 9, and 26 of this Recommendation Report.

Noise Policy Statement for England (NPSE)

- 3.6.13. The NPSE clarifies the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. The NPSE applies to all forms of noise.
- 3.6.14. The Explanatory Note within the NPSE provides guidance on defining significant adverse effects and adverse effects. One such concept identifies 'Lowest Observed Adverse Effect Level (LOAEL)' which is defined as the level above which adverse effects on health and quality of life can be detected. Other concepts identified are: Significant Observed Adverse Effect Level (SOAEL), which is the level above which significant adverse effects on health and quality of life occur, and No Observed Effect Level (NOEL) which is the level below which no effect can be detected.
- 3.6.15. When assessing the effects of development on noise, the aim should firstly be to avoid noise levels above the SOAEL, and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL.
- 3.6.16. Relevant matters are reported in Chapter 19 of this Recommendation Report.

The Protection of Badgers Act 1992

- 3.6.17. The Protection of Badgers Act 1992 proscribes offences relating to badgers, including interfering with badger setts, together with exceptions and licences and enforcement and penalties.

The Hedgerow Regulations 1997

- 3.6.18. The Hedgerow Regulations 1997 (as amended) protect important hedgerows with licencing and enforcement and penalties. The effect of the Proposed Development on hedgerows is discussed in ES Chapter 20 [APP-106]. The implications of the Proposed Development on hedgerows are discussed at Chapter 21 and 23 of this Recommendation Report.

The revised Waste Framework Directive 2008

- 3.6.19. The revised Waste Framework Directive (2008/98/EC) (rWFD) is the primary European waste management directive applicable to this DCO application. Relevant matters are reported in Chapter 24 of this Recommendation Report.

The International Convention for the Safety Of Life At Sea (SOLAS) 1974 (as amended)

- 3.6.20. The International Convention for the SOLAS is an international maritime treaty which sets minimum safety standards in the construction, equipment and operation of merchant ships, implemented under UK legislation by The Merchant Shipping (Safety of Navigation) Regulations 2002.
- 3.6.21. Relevant matters are reported in Chapter 12 of this Recommendation Report.

International Regulations for Preventing Collisions at Sea 1972 (as amended)

- 3.6.22. International Regulations for Preventing Collisions at Sea (COLREGs) (1972) (as amended) are regulations published by the International Maritime Organisation (IMO) under the Convention on the International Regulations for Preventing Collisions at Sea. They are in effect the 'Highway Code' of the sea, setting out navigation rules to be followed by ships and other vessels at sea to prevent collisions between two or more vessels.

3.6.23. Relevant matters are reported in Chapter 12 of this Recommendation Report.

The Air Navigation Order 2016

3.6.24. The Air Navigation Order 2016 covers the application of aviation obstruction lighting to wind turbines in UK territorial waters.

3.6.25. Relevant matters are reported in Chapters 12, 13 and 14 of this Recommendation Report.

The Protection of Wrecks Act 1973

3.6.26. The Protection of Wrecks Act 1973 provides protection for sites of wrecks designated for historical, archaeological or artistic value including provision for a restricted area around the wreck site.

3.6.27. Relevant matters are reported in Chapter 16 of this Recommendation Report.

The Protection of Military Remains Act 1986

3.6.28. The Protection of Military Remains Act 1986 provides protection for the wreckage of military aircraft and designated military vessels. The Act provides for two types of protection: 'protected places' and 'controlled sites'. Under the Act it is an offence to disturb a 'protected place', or to remove anything from the site; and it is illegal to conduct any operations within a 'controlled site' that might disturb the remains unless licensed to do so by the Ministry of Defence.

3.6.29. Relevant matters are reported in Chapter 16 of this Recommendation Report.

The Planning (Listed Buildings and Conservation Areas) Act 1990

3.6.30. The Planning (Listed Buildings and Conservation Areas) Act empowers the SoS to maintain a list of built structures of historic or architectural importance and sets out the principal statutory provisions that must be considered in the determination of any application affecting listed buildings and conservation areas. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, we have had regard to the desirability of preserving any listed buildings or their settings or any features of special architectural or historic interest which they possess. The historic environment is discussed in Chapter Heritage.

3.6.31. Relevant matters are reported in Chapter 16 of this Recommendation Report.

The Ancient Monuments and Archaeological Areas Act 1979

3.6.32. The Ancient Monuments and Archaeological Areas Act 1979 (as amended by the National Heritage Acts 1983 and 2002) (Section 61 (7)) protects scheduled monuments including: "... any site comprising or comprising the remains of any vehicle, vessel or aircraft or other movable structure or part thereof...". This applies to certain designated wrecks and any works taking place within such a site require Scheduled Monument Consent from the SoS.

3.6.33. Relevant matters are reported in Chapter 16 of this Recommendation Report.

Equality Act 2010 (EA2010)

3.6.34. S149 of EA2010 established a duty (the Public Sector Equality Duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The

PSED is applicable to the ExA in the conduct of this Examination and reporting and to the SoS in decision-making. We had particular regard to the PSED in terms of holding virtual meetings, producing guidance and holding those meetings, ensuring participants were provided with hard copy correspondence, where requested, and in our conduct of site inspections to ensure full appreciation of the potential impacts of the Proposed Development on persons with protected characteristics.

3.6.35. Relevant matters are reported in Chapter 28 of this Recommendation Report.

Human Rights Act 1998

3.6.36. The Compulsory Acquisition of land can engage various relevant Articles under the Human Rights Act 1998.

3.6.37. Relevant matters are reported in Chapter 28 of this Recommendation Report.

The Infrastructure Planning (Decisions) Regulations 2010

3.6.38. The Infrastructure Planning (Decisions) Regulations 2010 prescribe a list of matters to which the SoS under s103 of the PA2008 must have regard to when taking decisions on applications for NSIPs.

3.6.39. Regulation 3 requires, when deciding an application which affects a listed building (LB) or its setting, conservation areas or a scheduled monument or its setting the decision-maker must have regard to the desirability of preserving the LB or its setting or any features of special architectural or historic interest which it possesses, the desirability of preserving or enhancing the character or appearance of a conservation area and the desirability of preserving an affected SM or its setting.

Other Environmental Legislation

Water Resources Act 1991, Flood and Water Management Act 2010, Land Drainage Act 1991

3.6.40. These Acts set out the relevant regulatory controls that provide protection to waterbodies and water resources from abstraction pressures, discharge and pollution, and for drainage management related to non-main rivers.

The Environment Act 1995, Pollution Prevention and Control Act 1999 and the Environmental Permitting (England and Wales) Regulations 2016

3.6.41. Development proposals that could pollute air, water or land, increase flood risk, or adversely affect land drainage may need an Environmental Permit from the Environment Agency under the Environmental Permitting (England and Wales) Regulations 2016.

Highways Act 1980 (HA1980)

3.6.42. The HA deals specifically with the management and operation of the road network in England and Wales.

3.6.43. Relevant matters are reported in Chapter 18 of this Recommendation Report.

Town and Country Planning Act 1990 (as amended) (TCPA)

3.6.44. The TCPA regularises the development of land in England and Wales and includes an expansive code of planning regulations, detailing procedures for seeking planning permission and for securing planning obligations. Relevant matters are reported across the Recommendation Report where relevant and necessary.

3.7. MADE DEVELOPMENT CONSENT ORDERS

3.7.1. The Applicant has referred to a number of made development consent orders as either precedent cases or those having effects and implications with or on the Proposed Development. These are listed as follows:

- Dogger Bank Creyke Beck Offshore Wind Farm Order 2015
- East Anglia One North Wind Farm Order 2022
- East Anglia Two Wind Farm Order 2022
- Glyn Rhonwy Pumped Storage Generating Station Order 2017
- Hornsea Three Offshore Wind Farm Order 202
- Hornsea Two Offshore Wind Farm Order 2016
- Norfolk Boreas Offshore Wind Farm Order 2021
- Norfolk Vanguard Offshore Wind Farm Order 2022
- Port of Tilbury Expansion Order 2019
- Dogger Bank Teeside A and B Offshore Wind Farm Order 2015
- Silvertown Tunnel Order 2018

3.7.2. Reference was also made throughout the Examination to the application for a Development Consent Order for the Hornsea Four Offshore Wind Farm, which was determined on 12 July 2023, whereupon it was granted.

3.8. TRANSBOUNDARY EFFECTS

3.8.1. Where development has the potential to give rise to significant effects on the environment in other European Economic Area (EEA) States, Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs) applies. Regulation 32 sets out the obligations on the SoS to notify and consult other EEA State(s), which need to be considered alongside the statutory timeframes as prescribed by the PA2008.

3.8.2. The transboundary effects for this Proposed Development are discussed in Chapter 4 of this Recommendation Report.

3.9. THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

3.9.1. The NPPF and its accompanying Planning Practice Guidance set out the Government's planning policies for England and how these are expected to be applied, for the purposes of making Development Plans and deciding applications for planning permission under the Town and Country Planning Act 1990 (as amended).

3.9.2. The July 2021 iteration of the NPPF was in force throughout the Examination of the Proposed Development. The recently re-issued NPPF of September 2023 came into effect after the Examination had closed. This Recommendation Report therefore refers and relies on the previous version for its planning considerations, where relevant. However, the SoS should be aware that there were no material changes to the NPPF that were important or relevant for the consideration of this current development consent application.

3.9.3. Paragraph 5 of the NPPF makes clear that it does not contain specific policies for nationally significant infrastructure projects. These are to be determined in accordance with the decision-making framework in PA2008 and relevant national

policy statements for major infrastructure, as well as any other matters that are relevant.

- 3.9.4. Whilst the National Planning Policy Framework is a relevant matter, in the main the parties framed their submissions in relation to NPS EN1 and NPS EN3.

3.10. DEVELOPMENT PLANS

- 3.10.1. NPS EN1 (Para 4.1.5) states that policies contained within Development Plan documents and other Local Development Framework documents may be considered important and relevant in decision making. If there is any conflict between the above documents and an NPS then the NPS takes precedence due to the national significance of the infrastructure.

- 3.10.2. The onshore cable route and associated onshore development falls within the boundaries of three local authorities: North Norfolk District Council, Broadland District Council and South Norfolk Council. The whole of the onshore cable corridor falls within the remit of Norfolk County Council.

- 3.10.3. The current main Development Plan documents for each authority are set out below:

North Norfolk District Council (NNDC)

- Core Strategy and Minerals and Waste Development management Policies Development Plan 2010-2026 (adopted 2011).

Broadland District Council (BDC)

- Joint Core Strategy DPD 2011 (with 2014 amendments) (covering Broadland District, Norwich City and South Norfolk District);
- Broadland District Development Management DPD 2015;
- Site Allocations DPD 2016; and
- Relevant Area Action Plans 2016.

South Norfolk Council (SNC)

- Joint Core Strategy DPD 2011 (with 2014 amendments) (covering Broadland District, Norwich City and South Norfolk District);
- South Norfolk Development Management Policies Document 2015;
- Site Specific Allocations and Policies Document 2015; and
- Relevant Area Action Plans 2015 and 2016.

- 3.10.4. SNC, together with BDC and Norwich City Council are preparing a new Greater Norwich Local Plan which was submitted for Examination on 30 July 2021. It remains unadopted [APP-285].

Local Impact Reports

- 3.10.5. Section 104(2) of PA2008 states that in deciding an application for development consent where an NPS has effect, the SoS must have regard to any Local Impact Report (LIR) within the meaning of section 60(3) submitted to the SoS before the deadline specified in a notice under section 60(2). Under section 60(2) of PA2008 there is a requirement to give notice in writing to each local authority falling under section 56A inviting them to submit LIRs. This notice was given in the Rule 8 Letter [PD-009] which required LIRs to be submitted by Deadline 1.

- 3.10.6. LIRs were submitted by:

- Norfolk County Council [REP1-080];

- North Norfolk District Council [REP1-082];
- East Suffolk Council [REP1-076];
- Broadland District Council [REP1-066]; and
- South Norfolk Council [REP1-090].

3.10.7. The matters raised in the LIRs are discussed in the relevant chapters of this report. Overall, the LIRs made few references to Development Plan policies. Where an LIR has identified potential conflict with a Development Plan policy this is discussed in the relevant chapter of this Recommendation Report.

4. ISSUES RAISED AND ASSESSMENT OF EFFECTS

4.1. INTRODUCTION

4.1.1. This Chapter sets the Examining Authority's (ExA) Initial Assessment of Principal Issues (IAPI) that informed the Examination, as well as the issues that emerged through written submissions during Examination.

4.1.2. In the following sections of this Chapter, the ExA has reported on the Environmental Impact Assessment (EIA) and correspondingly on the adequacy of the Environmental Statement (ES), assessment of alternatives, and the Cumulative Effects Assessment (CEA). The ExA has also reported on the Applicant's proposed two changes to the application, and the Examination of the change requests. The Examination of the Applicant's proposed Rochdale Envelope approach to the construction of the Proposed Development, as set out in the Development Scenarios, is also reported in this Chapter. The ExA has set out how the Development Scenarios have been considered in the Examination of the effects of the Proposed Development.

4.2. PRINCIPAL ISSUES IN THE EXAMINATION

4.2.1. The ExA made its IAPI as required under Section (s) 88 of the Planning Act 2008 (as amended) (PA2008) and Rule 5 of The Infrastructure Planning (Examination Procedure) Rules (EPR) 2010. In making its IAPI, the ExA had regard to the application documents, relevant National Policy Statements (NPSs), the relevant guidance from the former Department for Communities and Local Government (now Department for Levelling Up, Housing and Communities (DLUHC)) together with Relevant Representations (RRs) submitted by Interested Parties (IPs) [RR-001 to RR-124].

4.2.2. Further RRs submitted in response to Applicant's Second Change Request are reported later in this Chapter.

4.2.3. The ExA's IAPI was published in a letter issued to all parties under Rule 6 of the EPR (Rule 6 letter) [PD-006, Annex C], and discussed at the Preliminary Meeting on 17 January 2023 [EV-006 to EV-008]. The Principal issues identified were:

- 1) Alternatives and Need;
- 2) Benthic Ecology, Intertidal, Subtidal and Coastal Effects;
- 3) Civil and Military Aviation;
- 4) Construction Effects Offshore;
- 5) Construction Effects Onshore;
- 6) Commercial Fisheries and Fishing;
- 7) Compulsory Acquisition (CA) and Temporary Possession (TP);
- 8) Cumulative Effects;
- 9) Design;
- 10) Development Consent Order;
- 11) Habitats and Ecology Offshore;
- 12) Habitats and Ecology Onshore;
- 13) Habitats Regulation Assessment;
- 14) Historic Environment and Cultural Heritage;
- 15) Land Use;
- 16) Landscape and Visual Effects;
- 17) Seascape and Visual Effects;
- 18) Navigation and Shipping;
- 19) Noise and Vibration;

- 20) Oil, Gas and Other Offshore Infrastructure and Activities;
- 21) Socio-economic Effects;
- 22) Traffic and Transport; and
- 23) Water Quality and Resources.

- 4.2.4. At the Preliminary Meeting [EV-006 to EV-008], Oulton Parish Council (PC) asked for greater consideration of the cumulative effects of the Proposed Development and other projects in the surrounding area that have been granted consent. Oulton PC and Norfolk Parishes Movement for an Offshore Transmission Network (NPMOTN) also asked if consideration of an alternative grid connection point would be a matter in the Examination, and in that regard requested that National Grid be compelled to attend Hearings and provide justification for the choice of grid connection for the Proposed Development [EV-008] [REP1-151] [REP1-165] [REP1-084]. Ardent Management requested that the Applicant should make greater endeavours to reach agreement by negotiation with Affected Persons (AP). The Applicant made no comments on the IAPI [EV-008].
- 4.2.5. The ExA confirmed that all matters raised would be considered in Examination, although no changes would be made to the IAPI. The ExA's Written Questions (WQ) broadly followed the structure of the IAPI, including the matters raised by IPs. Likewise, this Recommendation Report reflects that structure, with each IAPI topic forming individual chapters on Planning Issues.

4.3. APPLICANT'S CHANGE REQUESTS

Background and Policy Context

- 4.3.1. The Guidance for the Examination of Applications for Development Consent (published by the former Department for Communities and Local Government, March 2015) (Paragraphs 109 to 115) recognises that on occasions and for a number of reasons, Applicants may need to make changes to a proposal after an application has been accepted for Examination. Planning Inspectorate's Advice Note (AN) 16 provides further details on the process of requesting a change to an application.
- 4.3.2. The ExA, in determining whether and how to examine the changed application will need to ensure it is able to act reasonably and fairly, in accordance with the principles of natural justice. In doing so the ExA must consider a number of factors, including whether the application (as changed) is still of a sufficient standard for Examination, and whether sufficient consultation and thorough Examination of the changed Application can be undertaken within the statutory timetable of six months. If, however, a proposed change is so substantial that it constitutes a materially different project, the ExA will be unable to accept the proposed change because it would alter the application to such a degree that it could not be examined without breaching principles of fairness and reasonableness.
- 4.3.3. The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations) is also relevant if proposed changes to the application require additional land to be included within the Order limits. Regulation 4 of the CA Regulations states Regulations 5 to 19 are engaged if it is proposed to include additional land in the Order limits, and a person with an interest in the additional land does not consent to the inclusion of the provision.

Applicant's First Change Request

- 4.3.4. In the first change request, submitted at Deadline 2, 7 March 2023, the Applicant proposed two changes to the application [REP2-001a]. With regards to proposed change 1, the Applicant confirmed its surface water drainage solution at the onshore

substation out of the two initial options submitted with the application. The second option was then eliminated from the application. With regards to proposed change 2, the Applicant proposed the removal of an additional area of hedgerow close to the main construction compound in Attlebridge to aid visibility.

- 4.3.5. The Applicant provided a list of all the necessary updates and the application documents where these had been incorporated, a new document that had also been produced to support the first change request, and a review of the Environmental Statement (ES) [REP2-001a]. Changes to the dDCO included removing Works no 21B relating to the substation site drainage option. The Applicant confirmed that the change would not involve any additional land as defined in CA Regulations.
- 4.3.6. The extent of the changes and the information underpinning them were tested by the ExA during Issue Specific Hearing (ISH) 3 [EV-038] [EV-043] and ISH 4 [EV-059] [EV-063]. Both the proposed changes were in response to further engagement with Norfolk County Council (NCC) in its roles as the Local Lead Flood Authority (LLFA) and the Local Highway Authority (LHA).
- 4.3.7. The Applicant also provided its own assessment on the materiality of the proposed change. The Applicant stated that the proposed changes would not result in any changes to the overall assessment and conclusions of likely significant effects presented within the ES, and as such, in its view the proposed changes would be non-material.

ExA's Reasoning

- 4.3.8. With regards to proposed change 1, the ExA noted that the preferred option for seeking infiltration directly into the shallow granular zone, was always a part of the application. As such, the ExA was satisfied that the environmental effects of the choice have already been assessed in the ES [APP-104] [APP-210] and its accompanying reports [AS-023 to AS-030] [APP-307], the change has been adequately reflected in the rDCO. In that regard the application with proposed change 1 would be part of the Examination.
- 4.3.9. With regards to proposed change 2, the ExA noted that the hedgerow implicated falls within the Order limits. As such, the ExA was satisfied that the effects of the removal of the additional hedgerow would be examined as any hedgerow removal proposed in the application [APP-112].
- 4.3.10. The ExA considered the Applicant's Habitats Regulations Assessment (HRA) report and concluded that the proposed change would make no difference to the outcome of a HRA.
- 4.3.11. The ExA recognised that in considering whether or not to accept both the proposed changes for Examination, it was required to act reasonably and in accordance with the principles of natural justice. Applying the advice in AN 16, the ExA was content that there would be sufficient opportunity during the remaining Examination process for all relevant IPs to view the changes, for representations to be made in relation to the changes, and for any representations to be taken into account by the ExA.
- 4.3.12. For the reasons set out above and, having regard to the nature and scale of the proposed changes, the ExA concluded that the proposed changes would not constitute a project that would be materially different to the project for which development consent was originally sought. The ExA considered that the proposed changes were non-material in nature. The ExA also considered that no formal acceptance, notice, consultation, or related processes would be required, either under the CA Regulations or in the interests of fairness and natural justice, before the

ExA could examine the application as amended. As such, the ExA decided to accept for Examination the Applicant's proposed changes.

- 4.3.13. The ExA made it clear that the decision by the ExA to accept the change into the Examination did not imply acceptance of the planning merits or evidence for the change, the effects of which would be examined with the same rigour as the original application. This decision was issued in a Procedural Decision (PD) [PD-013] under Rule 9 of the EPR (Rule 9 Letter) on 17 April 2023, which was halfway through the Examination period.

Applicant's Second Change Request

- 4.3.14. In the second change request Submitted on 11 April 2023, the Applicant proposed the following changes [AS-045]:
- to amend the Order limits for the application to include additional land where the cable corridor passes through the Food Enterprise Park (FEP) Phase 2 site;
 - to reduce the Order limits slightly in the northern part of the FEP Phase 2 site;
 - to utilise the existing FEP access road and remove the separate new access that was proposed through to the FEP Phase 2 site; and
 - to include the option to use trenchless crossing under Church Lane to the south of the FEP Phase 2 site increasing the area of land over which rights are sought, which were previously subject to TP only.
- 4.3.15. The Applicant provided the rationale for the proposed changes [AS-065], accompanying Supplemental Environmental Information (SEI) material to support the change request [AS-063] and several documents that would be impacted by the proposed changes.
- 4.3.16. The proposed changes would require amendments to the land affected by CA and these amendments were incorporated into the updated versions of the Land Plans [AS-048], the Book of Reference (BoR) [AS-058] and the Statement of Reasons (SoR) [AS-061]. The Applicant also suggested an example timetable to enable the application along with the proposed changes to be considered within the Examination timetable.
- 4.3.17. The Applicant made several changes to the dDCO [AS-055] at the time of submitting the second change request, and later on through the course of the Examination [REP8-007], which included addition of a definition for the FEP Phase 2 and Supplemental Environmental Information, onshore cable corridor, and amendments to Requirement (R) 10 to provide for the increase the width of the onshore cable corridor when it passes the FEP Phase 2 site.
- 4.3.18. The Applicant also provided its own assessment [AS-065] on the materiality of the proposed changes. The Applicant states that the proposed changes would include acquisition of Additional Land and as such in its view, they would be material. The Applicant also stated that the changes were not of such a degree that they constituted a materially different project from the one applied for.

ExA's Reasoning

- 4.3.19. The ExA noted that there is no statutory requirement to consult on or publicise this SEI under The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the 2017 EIA Regulations) and that this is noted in AN 16. The ExA had regard to the nature and scale of the proposed changes as set out in the material provided by the Applicant so far. The ExA provisionally considered the environmental effects and found that the environmental effects of the proposed

changes had been covered adequately in the SEI and updated documents, in order to enable it to be examined. The ExA also noted that other documents would be updated by the Applicant. As such, the ExA concluded that consultation on the SEI would not be required.

4.3.20. The ExA considered the Applicant's HRA report and concluded that the proposed changes would not alter the outcome of the HRA.

4.3.21. In making its decision, whether or not to accept the second change request into Examination, the ExA took account of the following:

- 1) The ExA acknowledged that the requirement for the proposed changes has arisen as a result of collaborative discussions between the landowner of the FEP site and the Applicant with the aim of minimising the impact of the Proposed Development on the proposals for the development of the FEP site.
- 2) The ExA's own assessment was that in making this Procedural Decision at that time (on 17 April 2023, which was halfway through the Examination period) it would allow sufficient opportunity during the Examination for all relevant IPs to view the change, for representations to be made in relation to the change, and for any representations to be taken into account by the ExA.
- 3) The ExA recognised that in considering whether or not to accept the proposed change for Examination, it needed to act reasonably and in accordance with the principles of natural justice. Applying the advice in AN 16, the ExA was content that there would be sufficient opportunity during the remaining Examination process for all relevant Interested Parties to view the changes, for representations to be made in relation to the changes, and for any representations to be taken into account by the ExA.
- 4) Given the Applicant's change request required amendment to the Order limits for the application to include additional land where the cable corridor passes through the FEP Phase 2 site and reduces the extent of the Order limits in the northern part of the FEP Phase 2 site, the ExA considered that the proposed changes did constitute a material change to the application.
- 5) However, upon reviewing the evidence before it, giving consideration to the scale and extent of the proposed changes, and taking into account the SEI provided by the Applicant, the ExA did not consider the proposed changes to constitute a project, materially different to the project for which development consent was originally sought.

4.3.22. On account of the above reasoning, and in accordance with Regulation 6 of the CA Regulations, the ExA, on behalf of the Secretary of State for Energy Security and Net Zero (SoS), decided to accept the Applicant's proposed changes and inclusion of additional land as part of the application for Examination. The ExA made it clear that this decision did not imply any acceptance of the planning merits or evidence for the changes, the effects of which would be examined with the same rigour as the original Application. The Procedural Decision to accept the change request was made on the basis that the additional processes associated with it could be completed in the required time prior to the close of the Examination. This decision was issued in a Procedural Decision [PD-014] in a Rule 9 Letter on 17 April 2023.

Engagement of CA Regulations

4.3.23. The ExA had not received notice from any AP confirming consent to the inclusion of additional land and therefore concluded that consent cannot be said to have been given. Accordingly, the CA Regulations were engaged, and the ExA directed the Applicant to carry out its duties under Regulations 7, 8 and 9 of the CA Regulations.

- 4.3.24. Following the acceptance of the Applicant's second change request, the Applicant certified that the change to the Proposed Development had been notified and publicised in accordance with Regulations 7 and 8 of the CA Regulations. RRs in accordance with Regulation 10 of the CA Regulations were invited on the Applicant's proposed provision for the CA of additional land from 20 April to 26 May 2023. Subsequently, the Applicant submitted a Certificate of Compliance [OD-008] [OD-009] in line with Regulation 9 of the CA Regulations, which was received in Examination and accepted by the ExA on 29 May 2023.
- 4.3.25. Upon receiving the Certificates of Compliance from the Applicant, the ExA made several Procedural Decisions on 30 May 2023 [PD-019], in order to meet the CA Regulations and enable robust Examination of the changes to the Application within the Examination which are listed here:
- 1) Six further RRs were received [RR-041CR] [RR-045CR] [RR-060CR] [RR-064CR] [RR-118CR] [RR-125CR].
 - 2) In line with Regulation 11 of the CA Regulations, the ExA made a further assessment of principal issues and found that the ExA's initial assessment [PD-006, Annex C] remained unchanged on account of the Applicant's change request. In that regard, the ExA did not find it necessary to hold a meeting to discuss how the proposed provision should be examined.
 - 3) In line with Regulation 12 of the CA Regulations, it was necessary to amend the Examination Timetable to ensure that the Applicant's change request could be robustly examined within the Examination timeframe under Rule 8(3) of EPR. The updated Examination Timetable was published.
 - 4) In line with Regulation 13 of the CA Regulations, the ExA invited all IPs to submit Written Representations (WR) on the changes to the Proposed Development to amend the Application. Any additional APs and additional IPs were invited to submit WRs on the Application as a whole. IPs were given the required 21 days' notice. No WRs were received in the Examination.
 - 5) The ExA held ISH7 in line with the requirements in Regulation 14(2) of the CA Regulations. The ExA's notification gave the required 21 days' notice to any additional APs or IPs of the date, time and place fixed for the further ISH.
 - 6) In line with Regulations 15(1)(a) and (b), and 16(1)(a) and (b) of the CA Regulations, the ExA requested that additional APs and additional IPs notify if they wished to be heard at a Compulsory Acquisition Hearing (CAH) and at an Open Floor Hearing (OFH). While no requests were received the ExA held CAH2, but no further OFHs were held.

Conclusion on the Applicant's Change Requests

- 4.3.26. The ExA is satisfied that the proposed changes did not constitute a project that would be materially different to the project for which development consent was originally sought. Additionally, the ExA can be sure that the requirements of the CA regulations were met for the change request involving the inclusion of additional land in the Order limits. Finally, the ExA is satisfied that both requests to change the Application have been examined with the same rigour as the original Application in Chapter 18 Traffic and Transport, Chapter 22 Water Quality and Resources, Chapter 23 Landscape and Visual Effects and Chapter 31 Compulsory Acquisition and Related Matters.

4.4. ISSUES ARISING IN WRITTEN SUBMISSIONS

- 4.4.1. The Examination received 130 RRs including the RRs that were received in relation to the Applicant's second change request, several WRs and a number of other written submissions at the eight deadlines within the Examination timetable. Local Impact Reports (LIR) were received from Norfolk County Council (NCC), Broadland District Council (BDC), South Norfolk Council (SNC), North Norfolk District Council (NNDC)

and East Suffolk Council (ESC). The Applicant submitted agreed and signed Statements of Common Ground (SoCG) with 21 parties.

- 4.4.2. All of the issues raised fell within the ExA's IAPI and have been reported in the individual Chapters on Planning Issues in this Recommendation Report. Issues raised in the LIRs have also been set out in the individual Chapters on Planning Issues and reported on as the matters were addressed through the Examination. In addition, several submissions from APs relating to the CA and TP of their land were received and these have been reported in Chapter 31 of this Recommendation Report.

4.5. ENVIRONMENTAL IMPACT ASSESSMENT

Background and policy context

- 4.5.1. The 2017 EIA Regulations, which came into force on 16 May 2017, applies to the Proposed Development. The 2017 EIA Regulations places several requirements on the Applicant, notably:

- to meet several pre-application stage requirements relating to screening decisions and scoping on in accordance with Regulations 6 to 10;
- to meet the requirements relating to the preparation of an ES in accordance with Regulations 5 and 14 and Schedule 4; and
- to meet the assessment of alternatives and the CEA under Regulation 14 and Schedule 4.

- 4.5.2. The ExA has reported on the pre-application requirements in this Section, and considered the adequacy of the ES, the assessment of alternatives and the CEA in the following Section.

Pre-application requirements

- 4.5.3. On 9 October 2019, the Applicant submitted a Scoping Report to the SoS under Regulation 10 of the 2017 EIA Regulations (SI 572), Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion). The Applicant notified the SoS under Regulation 8(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Proposed Development.

- 4.5.4. On 18 November 2019 the Planning Inspectorate provided a Scoping Opinion [APP-281]. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES which included a Non-Technical Summary, submitted on 2 September 2022 [APP-087 to APP-280].

- 4.5.5. On 15 November 2022 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 16 of the EIA Regulations had been complied with [OD-005] [OD-006].

4.6. ADEQUACY OF THE ENVIRONMENTAL STATEMENT

- 4.6.1. The full list of documents included in the application submitted is listed in the guide to the application [APP-003]. This was updated regularly during the Examination to identify the documents that were reviewed. The final version was submitted just before the close of the Examination [REP8-002].

- 4.6.2. The ES submitted with the application, can be summarised as follows:

- ES Chapters 1 to 29 [APP-087 to APP-115];
- ES Figures [APP-116 to APP-174] [APP-230b] [APP-234] [APP-238] [APP-241 to APP-252];
- ES Appendices [APP-175 to APP-280]; and
- ES Non-Technical Summary [APP-086].

4.6.3. In addition to the ES appendices, the ES also relied on the background, assessment, modelling and analysis presented in several documents, including:

- Scenarios Statement [APP-314];
- Project Vision [APP-313];
- Flood Risk Assessment (FRA) [APP-058];
- Assessments relating to Cromer Shoal Chalk Beds, Marine Conservation Zone (MCZ), Approaches to Compensation and Measures of Equivalent Environmental Benefit (MEEB) [APP-077 to APP-084];
- Assessments relating to cable burial and protection [APP-291 to APP-294]
- Environmental Protection Statement of Engagement (Statutory Nuisance Statement) [APP-085];
- Impacts on the Qualities of Natural Beauty of Norfolk Coast Area of Outstanding Natural Beauty [APP-311];
- Outline Biodiversity Net Gain Strategy [APP-306];
- Arboricultural Survey Report [APP-228];
- Cable Statement [APP-283];
- Interim Cable Burial Study [APP-292];
- Export Cable Burial Risk Assessment [APP-292];
- Cable Protection Decommissioning Feasibility [APP-294]; and
- Disposal Site Characterisation Report [APP-300].

4.6.4. The assessment, modelling and analysis introduced or changed during the Examination that the Applicant has relied on in the assessment and findings in the ES have been discussed in individual Chapters. These include:

- FRA [AS-023 to AS-030] [REP3-097];
- Onshore Substation Drainage Study [REP3-036];
- Onshore Substation Hydraulic Modelling Report [REP5-045];
- Assessments relating to Cromer Shoal Chalk Beds, MCZ, Approaches to Compensation and MEEB [REP1-010] [REP1-011] [REP7-023];
- Initial Biodiversity Net Gain Strategy (Revision B) [REP3-049];
- Extended Phase 1 Habitat Survey Report (Revision B) [REP3-040];
- Great Crested Newt Survey Report (Revision B) [REP3-042];
- Wintering Birds Survey Report (Revision B) [REP3-044];
- Breeding Birds Survey Report (Revision B) [REP3-046];
- Navigational Safety Technical Note [REP3-031];
- Marine Processes Technical Note (Revision B) [REP3-093];
- Waveney Helicopter Access Supplementary Analysis [REP4-039];
- Stage 1 Cromer Shoal Chalk Beds MCZ Assessment (Revision B) [REP7-023]; and
- Instrument Flight Procedures Assessment for Norwich Airport (Revision B) [REP8-050].

4.6.5. The ES is supported by the following environmental management documents and delivery strategies, which were reviewed several times during the Examination, and the final versions are included in Schedule 18 Documents to be certified, of the draft Development Consent Order (dDCO) [REP8-005].

Table 4: Versions of Environmental Management Documents and Delivery Strategies

Document name	Submitted version	Final version
Draft Marine Mammal Mitigation Protocol (MMMP)	APP-288	REP1-013
Design and Access Statement (Onshore)	APP-287	REP3-056
Offshore Design Statement	APP-312	APP-312
Outline Written Scheme of Investigation (Offshore)	APP-298	APP-298
Outline Written Scheme of Investigation (Onshore)	APP-308	REP2-031
Outline Project Environmental Management Plan	APP-297	REP7-035
Outline Offshore Operations and Maintenance Plan	APP-296	REP3-058
Outline Construction Traffic Management Plan (OCTMP)	APP-301	REP5-027
Outline Code of Construction Practice	APP-302	REP8-023
Outline Landscape Management Plan	APP-303	REP5-031
Outline Ecological Management Plan	APP-304	REP8-025
In Principle Site Integrity Plan for the Southern North Sea Special Area of Conservation	APP-290	APP-290
Offshore In Principle Monitoring Plan	APP-289	REP7-029

ExA's Reasoning

4.6.6. The ExA's concerns about the assumptions relating to worst-case scenario underpinning the Transport Assessment has been reported later in this Chapter, and in detail in Chapter 18 of this Recommendation Report.

4.6.7. Taking into account thorough Examination of all ES related material, as well as the conclusion drawn in Chapter 18 of this Recommendation Report, the ExA is content that the ES and associated information submitted by the Applicant at the time of making the application and subsequently during the Examination, have provided an adequate assessment of the environmental effects of the Proposed Development. The ExA has taken account of the ES and associated information in the IAPI, while conducting the Examination of the application, and in this Recommendation Report to the SoS.

4.7. ASSESSMENT OF ALTERNATIVES

4.7.1. Assessment of alternatives was identified as a principal issue in the ExA's IAPI [PD-006, Annex C]. Reporting of alternatives in this Recommendation Report is covered in several Chapters as follows:

- Chapter 5 on Grid Connection covers matters relating to the National Grid connection including representations on the consideration of an alternative site for grid connection;
- Chapter 6 on Design covers matters in relation to the offshore substation location and potential layouts;
- Chapter 15 on Offshore Construction Effects looks at alternatives for wind turbine foundations and layouts;
- Chapter 20 on Construction Effects Onshore looks at alternative working methods along the onshore cable corridor;
- Chapter 22 on Water Resources and Flood Risk regarding the Sequential Test for FRA;
- Chapter 23 on Landscape and Visual Effects sets out the policy position and covers the onshore location and technology alternatives considered;
- Chapter 24 on Construction Effects Onshore covers alternative onshore cable corridor routes at Weybourne Woods;
- Chapter 26 on HRA reports on feasible alternatives considered under HRA, some of which are also cross referenced in Chapters 7, 8 and 21; and
- Chapter 28 on Compulsory Acquisition reports on the consideration of alternatives to the exercise of powers of CA by the Applicant.

4.7.2. In this Section, the ExA is reporting in principle on the adequacy of the Assessment of Alternatives with regards to the 2017 EIA Regulations, which requires: *“a description of the reasonable alternatives studied by the Applicant, which are relevant to the Proposed Development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment”*.

4.7.3. NPS EN1 makes it clear that there is no requirement to consider alternatives or establish whether the Proposed Development would represent the best option (NPS EN1, Paragraph 4.4.1). However, as required under the EIA Directive and relevant regulations, the Applicant is obliged to include information regarding the main alternatives studied in its ES (NPS EN1, Paragraph 4.4.2). Other statutory or policy factors that require alternatives to be considered include the legislative requirements under the Habitats Regulations and the policy requirement to consider alternatives in relation to biodiversity, flood risk and landscape and visual impacts (NPS EN1, Paragraph 4.4.4).

4.7.4. The Applicant’s ES includes information about the main alternatives considered. This is contained in the ES Chapter 3 [APP-089]. The main reasons for the Applicant’s choices are set out in these documents and summarised elsewhere such as in the Design and Access Statement [APP-287].

ExA’s Reasoning

4.7.5. On balance, drawing together the ExA’s conclusions on the assessment of alternatives in the aforementioned Chapters of this Recommendation Report, the ExA finds that the Applicant’s approach to assessment of alternatives as described in the ES is comprehensive and complies with the requirements of the EIA Regulations (Regulation 14 and Schedule 4). The ExA is also satisfied that during Examination the Proposed Development has been through sufficient scrutiny to ensure that the Applicant studied reasonable alternatives before determining the chosen options for specific reasons, and taking into account the effects of the options on the environment. In that regard, the ExA is also satisfied that the requirements of Section 4.4 of NPS EN1 are met.

4.8. CUMULATIVE EFFECTS ASSESSMENT

- 4.8.1. Significant Cumulative Effects was identified as a principal issue in the ExA's IAPI [PD-006, Annex C]. The ExA has considered the Applicant's assessment of alternatives in various planning areas and this has been discussed in individual Chapters, of this Recommendation Report.
- 4.8.2. In this Section, the ExA is considering and concluding if the Applicant's CEA is adequate given the requirements in NPS EN1, EIA Regulations, and the guidance in the Planning Inspectorate Advice Note 17: Cumulative Effects Assessment (AN17).
- 4.8.3. Paragraph 4.2.5 of NPS EN1 requires that the ES should provide information on how the effects of the Applicant's proposal would combine and interact with the effects of other development. The ExA should consider evidence relating to potential interactions with the Proposed Development in reaching decisions on mitigation measures that may be required.
- 4.8.4. Schedule 4, Paragraph 5 of the EIA Regulations sets out the information that should be included in the ES including a description of the likely significant effects of the proposed project on the environment, covering the cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project, and also the measures envisaged for avoiding or mitigating significant adverse effects.
- 4.8.5. The ExA asked the question of the Applicant [PD-010, Q1.9.1.1] to justify its approach to CEA, and corresponding mitigation with reference to AN17.
- 4.8.6. The Applicant confirmed [REP1-036] that the latest version of AN17 had been taken into account in its CEA. The Applicant also took on board the standard industry approach and based the CEA on the residual effects, as identified in the assessments for other projects. The Applicant reiterated that its approach, assessment and findings relating to CEA [APP-091, Section 5.8] is specific to each topic and is detailed in each technical chapter of the ES [APP-092 to APP-115] (Chapters 6 – 29) and developed through ongoing consultation with stakeholders.

ExA's Reasoning on CEA

- 4.8.7. In line with the Applicant's assessment, the adverse effects of the Proposed Development assessed cumulatively with other relevant projects has been considered in each assessment area, reasoned, and concluded on in various Chapters of this Recommendation Report. And as such the weighting of the adverse impact or benefit of the Proposed Development on each receiving environment takes into account cumulative effects. It follows, CEA has not been weighted separately in the Planning Balance.
- 4.8.8. On balance, drawing together the ExA's conclusions in other Chapters of this Recommendation Report, which includes the ExA's conclusion on cumulative effects in each receiving environment, the ExA finds that the Applicant's approach to CEA meets the requirements of NPS EN1 and EIA regulations, and is in line with the Planning Inspectorate's AN 17.

ExA's overall Reasoning on EIA

- 4.8.9. On account of the following reasons, the ExA is content that the EIA process has been satisfactory and meets the requirements of the EIA regulations:
- the ExA finds that the ES and associated information submitted by the Applicant at the time of making the application and subsequently during the Examination, have provided an adequate assessment of the environmental effects of the Proposed Development;

- the ExA finds that the Applicant's approach to assessment of alternatives as described in the ES is comprehensive and complies with the requirements of the EIA Regulations (Regulation 14 and Schedule 4), and Section 4.4 of NPS EN1; and
- the ExA finds that the Applicant's approach to CEA meets the requirements of NPS EN1 and EIA regulations, and is in line with the Planning Inspectorate's AN 17.

4.9. ROCHDALE ENVELOPE

Background and policy context

- 4.9.1. The policy background to the Rochdale Envelope arises from case law and addresses the consideration of an EIA in the context of applications for outline planning permission under the Town and Country Planning Act 1990 (TCPA). The Planning Inspectorate's AN 9 provides guidance on the use of the Rochdale Envelope approach under the PA2008.
- 4.9.2. The Rochdale Envelope approach is employed where the nature of the Proposed Development means that some details have not been confirmed. While the need for flexibility is identified in a number of NPSs, NPS EN1 (Paragraph 4.2.8) and the NPS for Renewable Energy Infrastructure (NPS EN3) (Paragraphs 2.6.43) stress the need to ensure that the significant effects of a Proposed Development have been properly assessed.

The Application

- 4.9.3. The Applicant has proposed multiple Development Scenarios which are explained in the Scenarios Statement [APP-314]. The scenarios are defined in Part 1 Article 2 Interpretation of the dDCO, identified in all work numbers in Schedule 1 of the dDCO [APP-024], and any novel drafting relating to the Development Scenarios is explained within the Explanatory Memorandum (EM) [APP-025].
- 4.9.4. Equinor New Energy Limited is the Applicant for this application. The undertaker of the Sheringham Shoal Extension Project (SEP) will be Scira Extension Limited (SEL) and is a wholly owned subsidiary of the Applicant, while the undertaker of the Dudgeon Extension Project (DEP) will be Dudgeon Extension Limited (DEL) which is owned by three entities including the Applicant.
- 4.9.5. In consultation with the Offshore Transmission Network Review (OTNR), the Department of Business, Energy & Industrial Strategy (BEIS) and other parties, the Applicant made the decision to co-ordinate the two separately owned projects, SEP and DEP, in order to seek to deliver the two projects with an integrated transmission system.
- 4.9.6. The Applicant states that given the different commercial ownerships of each project it would be necessary for the Applicant to retain flexibility in how the two projects might be delivered. The reason for this the Applicant states is that under the existing Government-led Contracts for Difference (CfD) scheme, two projects with separate ownerships are not allowed to submit shared or dependent bids. This means that, within the current CfD regulations, there is no guarantee that both SEP and DEP may be awarded a CfD in the same allocation round, which creates a barrier to ensuring that SEP and DEP can be constructed at the same time (concurrently). It is therefore necessary to retain flexibility to develop the projects in-isolation, where only one project is progressed; or sequentially, where one project is constructed ahead of the other.

- 4.9.7. The Applicant has also explained that if the projects have to be developed sequentially then the delivery of the integrated transmission system would require pre-investment by one of the undertakers early and at risk. The commercial risk of doing so without assurance that the other project will proceed would not be acceptable to the owners of the projects.
- 4.9.8. The Applicant states the preferred option is an integrated transmission system, providing transmission infrastructure which serves both of the wind farms, where both Projects are built concurrently. However, in the Applicant's view, given the different commercial ownerships of each project and for the reasons explained above, the flexibility of alternative Development Scenarios would be necessary. As such, the dDCO makes provision for the following [APP-314, Section 8]
- 1) Scenario 1 would mean that each project would be constructed separately in any one of the following ways:
 - a. the construction of SEP only where DEP would not proceed to construction;
 - b. the construction of DEP only where SEP would not proceed to construction;
 - c. sequential construction of SEP then DEP or vice versa; or
 - d. concurrent construction of the two projects
 - 2) Scenario 2 would mean that the two projects would be constructed sequentially, and whichever project would be constructed first would install the ducts for the second project;
 - 3) Scenario 3 would mean that either SEL or DEL would construct on behalf of both itself and the other project an integrated onshore substation and connection to National Grid's Norwich Main Substation and all other onshore and offshore works are constructed either concurrently or sequentially; and,
 - 4) Scenario 4 means either SEL or DEL would construct on behalf of both itself and the other project both the onshore and offshore integrated works including the integrated offshore substation, the integrated onshore substation and the onshore and offshore cables and all other onshore and offshore works are constructed either concurrently or sequentially.

Worst-case scenario in the EIA

- 4.9.9. The ES states that the EIA for SEP and DEP is based on the Rochdale Envelope approach. The ES describes how the worst-case scenarios for each assessment topic has been determined for the EIA. It is acknowledged that the different development scenarios could give rise to different potential impacts, magnitude of impact and/or different effects on receptors; therefore, an assessment of potential impacts is provided against each scenario, where relevant. Details are provided in the Realistic Worst-Case Scenario section of each ES chapter, with notes and rationale provided to explain the basis of the scenarios identified. Having established the realistic worst-case scenarios in this manner, the Applicant has not found it necessary to undertake further assessment of less adverse effects [APP-090] [APP-091].

Impact of Different Development Scenarios on Use of CA Powers

- 4.9.10. The ES states that the Development Scenario that is chosen would have implications for the way in which the CA powers are exercised. For the avoidance of doubt, as SEP and DEP are being developed in co-ordination, there will be no change to the Order Land regardless of the Development Scenario that is taken forwards. Instead the differences will arise in the timing of when the CA powers need to be exercised [APP-314, Section 11.2, Table 11-1].

Local Impact Reports

- 4.9.11. Norfolk County Council (NCC), in its LIR [REP1-080] has favoured the integrated approach to the construction of the two projects rather than a separate approach, to minimise the impact on NCC's infrastructure and population. NCC supports the use of the Rochdale Envelope method to consider the worst-case scenario, and is in agreement with the Applicant's assessment of which scenario represents the worst-case scenario for adverse effects on highways.
- 4.9.12. There are no substantive comments relating to the proposed Development Scenarios in any other of the submitted LIRs.

The Examination

- 4.9.13. Matters relating to the Applicant's proposed Development Scenarios were examined extensively and throughout the Examination. Concerns were raised regarding the varying effects of the different Development Scenarios on landowners affected by CA [REP1-171]. These matters are reported in Chapter 28 of this Recommendation Report. Natural England's (NE) comments [RR-063] relating to cable route construction are reported in Chapters 9 and 11 of this Recommendation Report. The ExA questioned the assumptions relating to the worst-case scenario in the Transport Assessment, which are reported in Chapter 18 of this Recommendation Report.
- 4.9.14. Several RRs [RR-046 to RR-048] [RR-078] [RR-085], notably Barford and Wrampingham PC [RR-006] expressed preference only for the Development Scenarios that proposed construction of both projects at the same time. It was proposed that scenarios 1a, 1b, 1c, 3 and 4 should not be permitted. This point was reiterated at OFH1 [REP1-144]. Objections were raised through WRs regarding the degree of flexibility that the Applicant is seeking, stating that this was exceptional and not consistent with the Rochdale Envelope [REP1-171].
- 4.9.15. National Farmers Union (NFU) felt that in light of the Applicant's pathfinder status under the OTNR and the joint application for both projects, the scenario to build both projects completely independently should not be allowed. The NFU highlighted that with the Development Scenarios there are too many variables especially with the sequential scenario, which could mean that the impact on landowners of the construction phase could be too great [REP1-122].
- 4.9.16. In response, the Applicant reiterated that its preferred option would be a Development Scenario with an integrated transmission system, and to build both projects concurrently, because this would be beneficial for the communities, the environment, for the economics of the Proposed Development, and for the consumers. However, for the reasons already set out in the application relating to the different commercial project ownerships and the current limitation that prevent the projects to apply to CfD together, the Applicant explained that alternative Development Scenarios such as a separated grid option would be necessary to enable SEP and DEP to be constructed in a phased approach, if necessary [REP1-034]. Referring to ES [APP-090, Section 4.7.2], the Applicant highlighted that the adverse effects of SEP and DEP built sequentially, which could be an eight year timeframe, has been assessed [REP2-043].
- 4.9.17. The Marine Management Organisation (MMO) sought clarification how far in advance of construction starting would the chosen Development Scenario be decided. MMO queried that once a scenario is decided could the scenario change. MMO also had concerns about the process of consultation and notification once the scenario had been chosen [RR-053].
- 4.9.18. The ExA also raised matters related to decision making process and timing seeking clarification on when the preferred scenario would be decided, the process of

consultation, notification and any related consents, and where this process is clarified and assessed and/or secured within the ES, dDCO and draft Deemed Marine Licenses (dDMLs). The ExA asked if the chosen scenario could change and what would be the implications, benefits and risks of introducing and securing a cut-off point of selecting a Development Scenario as a point of no return. The ExA asked the Applicant to compare the absolute worst-case scenario in the current application, to the two proposals (SEP and DEP) coming forward separately for Examination, and which would be worse [EV-005, 3] [EV-030, 3].

- 4.9.19. The Applicant responded that there would be no requirement to consult any parties regarding the Applicant's choice of Development Scenarios for SEP and DEP. Once the chosen development scenario is known, SEL and DEL will notify the relevant planning authority pursuant to Requirement (R) 9(1) and 9(2) and the MMO pursuant to dDML Condition 4 of Schedules 10 and 11 and Condition 3 of Schedules 12 and 13. Once the Development Scenario has been determined the final construction schedule and phasing plan can be matured such that the undertaker of each project can submit the phasing plan to the relevant planning authority pursuant to R9(4) and R9(5) of the dDCO (Revision C) [REP1-003].
- 4.9.20. The Applicant considered it highly unlikely that either of the projects would be minded to changing direction at a late stage in the development process; however if one project commences, it may not know key decisions relating to the second project, and as such the scenario choice could change on account of decisions by the second project, such as under Scenario 1c [REP1-036, Q1.6.1.1]. The Applicant stated it is not aware of any precedent for a made DCO which compels the undertaker to make a particular choice regarding construction, and doing so in this case would penalise the Applicant and prevent it from doing whatever is necessary to facilitate a co-ordinated approach as a preferred option [REP1-032].
- 4.9.21. The Applicant explained that both projects could have been two separate applications and would then not be subject to these questions. It follows that imposing any further controls around the commencement and completion of the two projects only because they are under one application would not be fair. The Applicant confirmed that whilst works would need to commence within the time limits secured in R1 of the dDCO [REP3-009], the development would not be required to complete within a certain time. The Applicant confirmed that, in its view, making two separate applications would have worse environmental effects. For example, it is unlikely that the projects would have the same cable corridor or cable corridors located next to each other, or a single haul road. The Applicant also said that for two separate applications, there would be the need to run separate planning processes so there would be two separate negotiations with landowners, separate stakeholder engagement and two separate DCO applications [EV-057] [EV-061] [REP3-110].
- 4.9.22. NPMOTN, questioned the balance of the benefit of the Proposed Development, in comparison to the construction related adverse effects. NPMOTN said that Hornsea Project 3 would generate 2.4 Giga Watts (GW), while Norfolk Vanguard and Norfolk Boreas would generate 3.6 GW respectively. In comparison the Proposed Development, would dig approximately the same length and width cable path with all its incumbent disruption and destruction through Norfolk for 0.338 GW from SEP and 0.448 GW from DEP. NPMOTN view was that the costs to communities and the environment, outweighed the benefit of this amount of energy, which was described as relatively small. And in that regard, NPMOTN reiterated that only some of the scenarios should be permitted [REP1-144].
- 4.9.23. In light of ongoing concerns from IPs [too numerous to list] regarding the adverse effects on onshore communities, and the assessed adverse onshore and offshore

construction stage effects and cumulative effects in the ES [too numerous to list], the ExA asked the Applicant to comment on the possibility that post Examination, the balance of the evidence in Examination does not demonstrate that the adverse impact of some or all of the options under Scenario 1 of the Proposed Development would outweigh its benefits, in line with s104(7) of the PA2008. The ExA asked the Applicant to explore options that may be available to the SoS, including a decision which supports granting consent for all Development Scenarios except some or all of the options under Scenario 1. In order to examine this option, the ExA asked the Applicant to provide, without prejudice, information relating to the assessment of need, viability and deliverability, adequacy of the ES, and modifications to the dDCO, the Land Plans, Crown Land Plans and Special Category Land Plans [PD-012, Q2.6.1.1].

- 4.9.24. The Applicant responded citing Section (s) 114(1) of the PA2008, that the SoS must either grant or refuse the development consent order as submitted. The removal of one or more options forming part of Scenario 1, the Applicant stated, would involve a material difference to the application submitted. The Applicant stated that the changes requested by the ExA would only be appropriate if the Applicant was agreeable to this approach. However, the Applicant reiterated that the application should be determined on the basis of the scenarios in the submitted application and subsequently, declined to provide the information requested on the basis that it is not required for the Examination of the application that is before the ExA [REP3-074].
- 4.9.25. The Applicant acknowledged that s104(7) provides for the possibility that an application which is in accordance with the relevant NPSs pursuant to s104(3), nevertheless be refused as a result of the adverse impact of the proposed development. However, the Applicant stated that an application which is in accordance with the relevant NPSs, the adverse impact would have to be wholly exceptional for it to be valid grounds for refusal under s104(7), in order to not undermine the compliance with the NPSs [REP3-074].
- 4.9.26. The Applicant continued that adverse impact that could be considered exceptional for it to be valid grounds for refusal under s104(7), would be expected to relate to the permanent operational impacts of the proposed development. The Applicant asserted that this did not apply to the Proposed Development as the operational impacts are materially the same regardless of which project Development Scenario is chosen. The remaining adverse impact would be from temporary construction impacts of the Proposed Development and on a cumulative basis with other projects. The Applicant also stated that the mitigations proposed for these impacts follow established precedents. As such, the Applicant emphasised that given route selection was not being questioned, temporary construction effects of this Proposed Development could not reasonably be regarded as exceptional within the terms required under s104(7), and in the Applicant's, view would be difficult to justify as lawful grounds for refusal [REP3-074].
- 4.9.27. Over the course of the Examination, the Applicant did however, make related changes to the dDCO through the inclusion of an onshore collaboration requirement R33 and an offshore collaboration Condition 24 of Schedules 10 and 11 and Condition 23 of Schedules 12 and 13, to better reflect and secure the co-ordinated working in the event of Development Scenarios 1c, 1d or 2.
- 4.9.28. The ExA and other IPs did not ask any further questions on the principle of the Applicant's proposed Development Scenarios. The Applicant provided a summary of its position at the close of the Examination [REP8-062].

ExA's Reasoning

- 4.9.29. As a starting point, in principle, the ExA welcomes the Applicant jointly applying for SEP and DEP that could have been two separate applications and projects. However, there are still several matters outside of the Applicant's control, including the outcomes of the CfD process and any related policy changes, which could have a bearing on the Applicant's ability to deliver its preferred option which is to construct both the projects in a co-ordinated manner. Given the Proposed Development Scenarios underpin the assessment of adverse effects in all receiving environments covered in the Examination and in this Recommendation Report, the ExA has provided its reasoning and conclusion on the fundamental and cross-cutting issues raised regarding Applicant's Development Scenarios.
- 4.9.30. First, the ExA provides its findings on the Applicant's proposed Rochdale Envelope approach. Given the Applicant is attempting to deliver two distinct projects under different commercial ownerships, in a co-ordinated manner, from planning to construction to operation, the ExA finds that the need for flexibility in the application is justifiable. While there is no provision in PA2008 nor in EIA Regulations, for such flexibility in the application material, the ExA accepts that the Rochdale envelope approach based on case law is applicable here. In that regard, the ExA finds that the Applicant's assessment of the worst-case scenario for each assessment topic was agreed with relevant stakeholders, and/ or adequately tested through the Examination and found to be sound. As such, the ExA can conclude that the significant effects of a Proposed Development have been properly assessed in line with NPS EN1 (Paragraph 4.2.8) and the NPS EN3 (Paragraphs 2.6.43).
- 4.9.31. Second the ExA has considered if the Applicant's proposed Development Scenarios represent too wide a range of possibilities to be considered under one DCO application, and indeed if they misuse the Rochdale Envelope approach. The ExA finds that the outcome of the Proposed Development in many respects, the size of the substation, the array of turbines and the quantum of energy generation, could be substantially different depending on the choice of the Development Scenario. ExA's reasoning on the variability of the size of substation and the turbine array has been reported in Chapters 11, 15 and 23 of this Recommendation Report, where the worst-case scenario, proposed mitigation measures and residual adverse effects have been taken into account in the ExA's conclusions.
- 4.9.32. In relation to the quantum of energy generation, Scenarios 1a and 1b could represent significant reduction in the amount of energy generated, given only SEP or DEP would be built and operated. However, in both instances the energy generation still exceeds the threshold 100 megawatts (MW) in s15(3) of PA2008. There is no other metric for the ExA to measure the energy output for an Offshore Wind Farm (OWF). Consequently, within the legislative framework the generation of a little over 100 MW or a lot over 100 MW is all the same. Looking at it another way, even if both SEP and DEP were not a single project, but instead two separate applications and projects, the Applicant(s) could have, within limits set in the proposed Development Scenarios, sought the same level of variability and flexibility in terms of size of the substation, the array of turbines and the quantum of energy generation. Given the s15 threshold is met in all circumstances, there is no evidence, or policy position, or indeed legislative grounds, before the ExA that would enable it to deny the inclusion of a particular scenario within the application, provided, given that a Rochdale Envelope approach has been employed, that the likely significant effects have been properly assessed, which the ExA considers is the case.
- 4.9.33. On a related point, the ExA is persuaded by the Applicant's explanation that the flexibility in relation to the choice of the scenarios, is needed in order to respond to any outcome of the CfD process and corresponding investment decision. The ExA is also convinced that further restrictions in the dDCO could disadvantage the Applicant

from doing whatever is necessary to deliver both projects in the most co-ordinated way.

- 4.9.34. In that regard the ExA welcomes the Applicant's changes in the rDCO and dDMLs. The ExA takes into account the provisions in R33 Onshore Collaboration, Condition 24 (Schedule 11 and 11) and Condition 23 (Schedule 12 and 13) and in the dDMLs which secure co-ordinated working in the event of scenarios 1c, 1d or 2, and finds that to be marginal improvement on the worst-case scenario. Likewise, the ExA finds that the amendments to R9 and Condition 4 in the dDMLs provide welcome controls for the Applicant to communicate its choice of Development Scenario with the relevant Local Authority and the MMO.
- 4.9.35. The benefits of the best-case scenario, Scenario 4, over other Development Scenarios is in no doubt. Also uncontested is that possibility that the two projects could have come forward as two separate applications, in which case the Examination of both projects would have dealt with a more normative need for flexibility. As such, the question before the ExA is if the worst-case of the proposed Development Scenarios, is worse than the possibility that both SEP and DEP came forward as two separate applications.
- 4.9.36. In that regard, the ExA finds that the Applicant's approach to bring forward SEP and DEP under a single application represents a marginal benefit, even if both SEP and DEP were delivered sequentially or concurrently, which represents the worst-case scenario for most receiving environments, over the two projects coming forward separately. In the ExA's assessment this is for two main reasons.
- 1) The joint application represents a more efficient planning process and has meant that the engagement with the communities and APs has been effectively halved, reducing the community burden significantly.
 - 2) Given both projects are extensions of existing OWF that are adjacently located, there would be a need for alignment between SEP and DEP. The ExA rejects the Applicant's argument about the joint application's environmental benefits in relation to single cable corridor and haul road, which the ExA finds has been overstated. Even as two separate projects and applications, there was a reasonable chance that the SEP and DEP would have found efficiencies in land take and construction, following the precedent, such as Norfolk Vanguard and Norfolk Boreas. However, the ExA finds that the assessment of the environmental effects under one application has given a greater understanding of the significant adverse effects of both SEP and DEP together, than would not have been possible quite so comprehensively if the two projects came forward as two separate applications.
- 4.9.37. As such, the ExA does not disagree with the Applicant's position that both SEP and DEP coming forwardly jointly as the Proposed Development generally represents an all-round advantage, no matter which Development Scenarios would proceed to construction. In conclusion, the ExA accepts the range of Development Scenarios proposed by the Applicant, and finds that the exclusion of one or more scenarios, given the specifics of the case, is not necessary nor available to the ExA. To ensure the Applicant can retain the flexibility to whatever is necessary to deliver both projects in the most co-ordinated way, the ExA does not propose any further provisions in the ExA's rDCO.
- 4.9.38. Third, the ExA has given considerable thought to the case made by NPMOTN regarding the balance of benefit, in terms of energy generation, and adverse effects, in terms of construction effects, and finds there is merit in that argument. The ExA followed this up with its own written question seeking to explore the possibility of a qualified decision by the SoS, whereby only some of the Development Scenarios

proposed, are consented. Conversely, the ExA finds the Applicant's responses in this regard to be selective. Firstly, the ExA considers that the Applicant's interpretation of s114 of the PA2008 is incorrect; s114 does not prevent the SoS from granting consent for only a part of the application. Secondly, the Applicant's assertion that the balance of s104(7) could not lawfully be found against the benefits of the Proposed Development on grounds of the harm of adverse construction effects, is without any valid explanation or precedence, nor stated anywhere in the wording in PA2008 itself. Overall, the ExA finds that the Applicant's responses to questions about the proposed Development Scenario lacks justification and relies too heavily on the Proposed Development potentially being a pathfinder.

- 4.9.39. The ExA has already concluded that the need for flexibility in the application is justifiable and accepts that the Rochdale envelope approach based on case law is applicable here. The ExA has also concluded that while the Applicant's proposed Development Scenarios represent a wide range of possibilities to be considered under one application, all scenarios meet the threshold set in s15 of the PA2008; consequently, all Development Scenarios in this specific case are available to the Applicant. The ExA finds that the exclusion of any one or more Development Scenarios is not necessary.
- 4.9.40. However, in the absence of a robust response from the Applicant, the ExA finds with the case made by NPMOTN. Therefore, the ExA considers that the fundamental difference in the quantum of energy generation between Scenarios 1a and 1b and all other scenarios must be taken into account in the assessment of the balance of adverse impact of the Proposed Development against its benefits, pursuant of s104(7) of PA2008.
- 4.9.41. The ExA has taken account of the two different energy generation outcomes in the various Development Scenarios in its conclusions in the Planning Matters Chapters, and in Chapter 27 in the Recommendation Report, and drawn two planning balance conclusions: first, by weighting the benefits of the Proposed Development for all Development Scenarios except 1a and 1b, against the adverse impact of the Proposed Development, and second, by weighting the benefits of the reduced energy generation and socio-economic benefits of Scenarios 1a and 1b, against the adverse impact of the Proposed Development.
- 4.9.42. In apportioning weight to the effects of the Proposed Development on each receiving environment, the ExA has first weighted the benefits of the Proposed Development, all Development Scenarios, where both SEP and DEP are built (all Development Scenarios except 1a and 1b), against the adverse impact of the Proposed Development, and this is reported in each individual Chapter.
- 4.9.43. Secondly, the ExA has weighted the benefits of the reduced energy generation, where either only SEP or only DEP is built (Development Scenarios 1a and 1b), against the adverse impact of the Proposed Development. The ExA has found this to be less straightforward. The ES has assessed the adverse effects of the worst-case scenario which would be building both SEP and DEP. If only SEP or only DEP are constructed, the adverse effects in most cases would be reduced, but this assessment is not always before the ExA. The ExA finds that comparing the reduced benefits of building only SEP or only DEP against the full extent of the adverse impact of building both SEP and DEP, would not be a fair assessment. As such, on the basis of the information before it and the assessment available in the ES, the ExA has been able to afford a different weight in the two planning balances only in the case of socio-economic effects, where the benefits of the Proposed Development would be reduced if only SEP or only DEP were built.

4.10. THE NEED FOR THE DEVELOPMENT

Background and policy context

- 4.10.1. NPS EN1 has established that the United Kingdom (UK) needs all the types of energy infrastructure covered by the NPS in order to achieve energy security and reduce greenhouse gas emissions (NPS EN1, Paragraph 3.1.1).
- 4.10.2. NPS EN1 requires from the Applicant, to propose new energy infrastructure projects within the strategic framework set by Government and does not set targets for or limits on different technologies (NPS EN1, Paragraph 3.1.2).
- 4.10.3. In making its decision on all applications for energy infrastructure, the SoS should take into account:
- 1) that the Government has demonstrated that there is a need of identified scale and urgency for those types of infrastructure (NPS EN1, Paragraph 3.1.3);
 - 2) give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for energy infrastructure (NPS EN1, Paragraph 3.1.4); and
 - 3) start with a presumption in favour of granting consent given the level and urgency of need for infrastructure covered by the energy NPSs (NPS EN1, Paragraph 4.1.2).

The Application

- 4.10.4. The Applicant has made the justification for the need for the Proposed Development within the Government's strategic policy framework set out in NPS EN1 and elsewhere, including Energy White Paper: Powering Our Net Zero Future (HM Government, 2020), British Energy Security Strategy (HM Government 2022) and Clean Growth Strategy (BEIS, 2017). Broadly the Applicant's justification for the need for the Proposed Development builds on the following points [APP-285]:
- to meet energy security and carbon reduction objectives;
 - to replace the electricity generating capacity of many of the UK's older fossil fuel and nuclear plants that are closing;
 - to meet the urgency of the need for low carbon electricity capacity from renewables to meet future increases in electricity demand; and
 - to maximise economic opportunities through the energy sector in the UK which plays a central role in boosting the economy and providing new jobs and skills.
- 4.10.5. LIRs [REP1-066] [REP1-076] [REP1-080] [REP1-082] [REP1-090] support the Proposed Development and have not raised any substantive comments about the need for the Proposed Development or this type of energy infrastructure.

The Examination

- 4.10.6. IPs did not raise doubts about the need for the Proposed Development or this type of energy infrastructure. The ExA asked [PD-010, Q1.2.4.1] the Applicant to further justify the need for the specific type of infrastructure (OWF) for electricity generation as opposed to or alongside other types of energy infrastructure. The ExA also asked the Applicant to explain, how the Proposed Development specifically satisfies the need for OWF, especially in the context of NPS EN1 Paragraph 3.2.3: *"The weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure"*; and Paragraph 3.3.4: *"There are benefits of having a diverse mix of all types of power generation. It means we are not*

dependent on any one type of generation or one source of fuel or power and so helps to ensure security of supply.”

- 4.10.7. In response, the Applicant provided further policy-based evidence relating to the Updated Energy and Emissions Projections provided in NPS EN1, which emphasises the estimated targets and quantum of need for electricity generation that needs to come from renewable sources. To support the case for OWFs specifically, the Applicant quoted the Government’s ambition for more OWFs in the British Energy Security Strategy of April 2022. The Applicant went on to explain that while NPS EN1 promotes diversity in the mix of types of energy infrastructure to support resilience of supply, it also states that it is for industry to propose the specific types of developments, and that the NPS has specifically not set targets for or limits on different technologies [REP1-038, Appendix B.3].

ExA’s Reasoning

- 4.10.8. Based on the Applicant’s case presented in the ES, and in the absence of any objections from the IPs in relation to the need for the Proposed Development, the ExA is satisfied that in line with NPS EN1, the Applicant has demonstrated the need for energy infrastructure in general, the need for OWF technology for the generation of renewable energy, and the need for the specific Proposed Development to satisfy the need for energy generation from OWF. Based on the case made in the ES and in the Examination, and the ExA’s conclusion in Chapter 27 of this Recommendation Report, the ExA recommends that the SoS should give substantial weight to the contribution that the Proposed Development would make to satisfying the need for this type of energy infrastructure (NPS EN1, Paragraph 3.1.4). The presumption in favour of development for OWF, as an energy type set out in NPS EN1, would therefore be engaged (NPS EN1, Paragraph 4.1.2).

4.11. TRANSBOUNDARY EFFECTS

- 4.11.1. Regulation 32 of the EIA Regulations 2017 concerns the likely significant effects of a development on the environment of a European Economic Area (EEA) state. The Regulation 32 duty is an ongoing duty.
- 4.11.2. The Applicant conducted a Screening Exercise for transboundary effects within the ES [OD-003]. Following the Scoping Opinion issued by the Planning Inspectorate in November 2019 [APP-281], a number of transboundary impacts, which identified potential significant effects on the European Economic Area (EEA) states Belgium and the Netherlands, remained scoped in and thus needed taking forward to the EIA process.
- 4.11.3. The Planning Inspectorate published a transboundary screening following the adoption of the scoping opinion, which included both Belgium and the Netherlands. Belgium responded and asked to be consulted on the application. Following the acceptance of the application, the transboundary screening was updated. Belgium was consulted, and the Netherlands was re-notified. Neither party submitted any comments during the Examination.

ExA’s Reasoning

- 4.11.4. In the absence of any representation received from Belgium and the Netherlands on this matter, the ExA view on this matter is not offered.

4.12. DECOMMISSIONING

- 4.12.1. The Applicant has reported on potential decommissioning activities in respect of each topic in the ES, but summarises the approach in ES Chapter 4 [APP-090, Paragraphs 238ff]. A specific study into the feasibility of removing undersea cable protection from the affected MCZ was also submitted to the Examination [APP-294].
- 4.12.2. At the end of the operational life of the wind farms, SEP and DEP would be decommissioned, in line with The Crown Estate's (TCE) Agreements for Lease requirements. Under the Energy Act 2004, a decommissioning programme must be submitted to and approved by SoS as secured through R8 of the dDCO, a draft of which would be submitted prior to the start of construction following consultation with the relevant authorities and statutory bodies.
- 4.12.3. The decommissioning plan and associated programme would be updated during the lifetime of SEP and DEP to reflect any changes to regulatory requirements, best practice and new technologies. As such, the scope of the decommissioning works would be determined by the relevant legislation and guidance at the time. It is anticipated that offshore decommissioning would take up to approximately one year for each of SEP and DEP.
- 4.12.4. The Applicant predicts that the decommissioning sequence would generally be the reverse of construction and would involve similar types and numbers of vessels and equipment, with effects either equivalent to or potentially less than those for construction, depending on decisions made in the future, such as whether to leave disused cables in situ rather than excavating them).

ExA's Reasoning

- 4.12.5. Decommissioning related activities could lead to significant adverse effects, with potentially no benefits. But in the absence of any information and the lack of certainty about the activities involved, the ExA is in no position to make any further assessment on decommissioning activities, or indeed account for it in the Planning Balance in Chapter 27 in the Recommendation Report. No representations were received in relation to decommissioning during the Examination. The ExA has no reason to disagree with the Applicant's approach and assessment of decommissioning effects, which is in accordance with the expectation of NPS EN1 Paragraph 4.2.3. The ExA is content that R8 of the rDCO adequately secures the provision of a decommissioning plan in consultation with various stakeholders, and this would provide a suitable mechanism for decommissioning in the future.

4.13. CONCLUSIONS

Principal Issues and Issues Raised in the Examination

- 4.13.1. The ExA is content that all matters identified in the ExA's IAPI, matters raised by IPs in written and oral submissions, matters raised in LIRs have been considered in Chapters 5 to 26 on Offshore and Onshore Planning Matters, and Chapter 28 covering CA and TP matters.

Applicant's Change Requests

- 4.13.2. The ExA is satisfied that all the changes proposed by the Applicant in the first and second change requests did not constitute a project that would be so materially different to the project for which development consent was originally sought that it would amount to a different project from that originally applied for, and that both requests to change the Application have been examined with the same rigour as the original application. Additionally, the ExA is sure that the requirements of the CA regulations were met for the change request involving the inclusion of additional land in the Order limits.

Environmental Impact Assessment

- 4.13.3. The ExA is content that the EIA process, including the Pre-application requirements, adequacy of the ES, consideration of alternatives, and CEA has been satisfactory, meets the requirements of the EIA regulations, is in line with the Planning Inspectorate's AN 17, and meets the requirements of Section 4.4 of NPS EN1.
- 4.13.4. In line with the Applicant's approach to assess CEA in each assessment area in the ES, the ExA has considered the adverse effects of the Proposed Development cumulatively with other relevant projects in each assessment area. It follows the ExA's reasoning and conclusion on CEA are included in various Chapters of this Recommendation Report. As such the weighting of the adverse impact or benefit of the Proposed Development on each receiving environment takes into account cumulative effects. It follows, CEA has not been weighted separately in the Planning Balance.
- 4.13.5. Overall, the ExA is content that the EIA process has been satisfactory and meets the requirements of the EIA regulations.

Rochdale Envelope

- 4.13.6. The ExA has concluded on the principle of the Applicant's Proposed Development Scenarios here. The ExA approach to the Proposed Development Scenarios in its consideration of the environmental effects of the Proposed Development and planning balance pursuant of s104(7) of PA2008, and related conclusions are outlined here.
- 1) First, given the Applicant is attempting to deliver two distinct projects under different commercial ownerships, in a co-ordinated manner, from planning to construction to operation, the ExA finds that the need for flexibility in the application is justifiable. The ExA also accepts that the Rochdale envelope approach based on case law is applicable here and can conclude that the significant effects of a Proposed Development have been properly assessed in line with NPS EN1 (Paragraph 4.2.8) and the NPS EN3 (Paragraphs 2.6.43).
 - 2) Second, the ExA finds that while the Applicant's proposed scenarios represent a wide range of possibilities to be considered under one DCO application, the threshold set in s15 of PA2008 is met in all circumstances. Additionally, on account of efficiencies in the Planning process, engagement with stakeholders, and joint consideration of the environment effects of both projects in one Examination, the ExA cannot disagree with the Applicant's position that both SEP and DEP coming forwardly jointly as the Proposed Development generally represents an all-round advantage, no matter which Development Scenarios would proceed to construction. In conclusion, the ExA accepts the range of Development Scenarios proposed by the Applicant, and finds that the exclusion of one or more scenarios, given the specifics of the case, is not necessary.
 - 3) The ExA finds the additional controls proposed by the Applicant in R9, R33, Condition 4, Condition 24 (Schedule 11 and 11) and Condition 23 (Schedule 12 and 13) secure co-ordinated working between the two undertakers and provide welcome controls for the Applicant to communicate its choice of Development Scenario with the relevant Local Authority and the MMO. To ensure the Applicant can retain the flexibility to do whatever is necessary to deliver both projects in the most co-ordinated way, the ExA does not propose any further provisions in the rDCO.
 - 4) Third, on the basis of the case made by NPMOTN regarding the balance of benefit, in terms of energy generation, and adverse effects, in terms of construction effects, the ExA considers that the fundamental difference in the quantum of energy generation between Scenarios 1a and 1b and all other

scenarios must be taken into account in the assessment of the balance of adverse impact of the Proposed Development against its benefits, pursuant of s104(7) of PA2008. As such, the ExA has drawn two planning balance conclusions: first, by weighting the benefits of the Proposed Development, all Scenarios except 1a and 1b, against the adverse impact of the Proposed Development, and second, by weighting the benefits of the reduced energy generation of Scenarios 1a and 1b, against the adverse impact of the Proposed Development.

- 5) However due to the limitations in the information before the ExA in terms of the assessment of the worst-case available in the ES, the ExA finds that comparing the reduced benefits of building only SEP or only DEP against the full extent of the adverse impact of building both SEP and DEP, would not be a fair assessment. As such, the ExA has been able to afford a different weight in the two planning balances only in the case of socio-economic effects, where the benefits of the Proposed Development would be reduced if only SEP or only DEP were built.

The Need for the Development

- 4.13.7. The ExA is satisfied that in line with NPS EN1, the Applicant has demonstrated the need for the Proposed Development and recommends that the SoS should give substantial weight to the contribution that all the Development Scenarios of the Proposed Development would make to satisfying the need for this type of energy infrastructure (NPS EN1, Paragraph 3.1.4). The presumption in favour of development for OWF, as an energy type set out in NPS EN1, would therefore be engaged (NPS EN1, Paragraph 4.1.2).

Transboundary Effects

- 4.13.8. In the absence of any representation received from Belgium and the Netherlands on this matter, the ExA view on this matter is not offered.

Decommissioning

- 4.13.9. The ExA is satisfied with the Applicant's approach and assessment of decommissioning effects, which is in accordance with the expectation of NPS EN1 Paragraph 4.2.3. The ExA is content that R8 of the rDCO adequately secures the provision of a decommissioning plan in consultation with various stakeholders, and this would provide a suitable mechanism for decommissioning in the future. Due to the great uncertainty relating to decommissioning relating activities that are not before the ExA, the ExA is not able to give it any consideration or weight in the Planning Balance.

OVERARCHING PLANNING MATTERS

5. ALTERNATIVES AND GRID CONNECTION

5.1. BACKGROUND AND POLICY CONTEXT

5.1.1. Alternatives was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the Development Scenarios and the Rochdale Envelope as proposed. Additionally, this area of Examination also included the selection of landfall site and substation site.

5.1.2. This section also considers matters associated with the achievement of a viable grid connection.

5.1.3. Matters relating to the need for this type of energy infrastructure, and specifically for the Proposed Development have been covered in Chapter 4 of the Recommendation Report.

National Policy Statement

5.1.4. There is no policy requirement to consider alternatives or to establish whether the proposed project represents the best option in the Overarching National Policy Statement for Energy (NPS EN1) (NPS EN1, Paragraph 4.4.1). However, The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations), states in Schedule 4 that the Environmental Statement (ES) must include a description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

5.1.5. In that regard the assessment for Alternatives and the NPS EN1 and National Policy Statement for Renewable Energy Infrastructure (NPS EN3) requires from the Applicant:

- to include in the ES the main alternatives that have been studied, including the main reasons for the choice, taking into account the environmental, social, economic effects, and technical and commercial feasibility (NPS EN1, Paragraph 4.4.2);
- potential alternatives to a proposed development should be identified before an application is made so as to allow appropriate consultation and the development of a suitable evidence base in relation to any alternatives which are particularly relevant (NPS EN1, Paragraph 4.4.3); and
- consideration of alternatives, especially to minimise flood risk (NPS EN1, Paragraph 5.7.13) and to avoid adverse effects on biodiversity (NPS EN1, Paragraph 5.3.7), landscape (NPS EN1, Paragraph 5.7.13), the intertidal zone (NPS EN3, Paragraph 2.6.81), marine mammals (NPS EN3, Paragraph 2.6.93), and seascape (NPS EN3, Paragraph 2.6.208).

5.1.6. In considering the adequacy of the Applicant's assessment of Alternatives, the NPS EN1 states that the SoS should be guided by the following considerations:

- whether there is a realistic prospect of the alternative delivering the same infrastructure capacity, including energy security and climate change benefits in the same timescale as the proposed development (NPS EN1, Paragraph 4.4.3);
- alternatives not studied by the applicant should only be considered to the extent that the Secretary of State (SoS) thinks they are both important and relevant to its decision; in this regard a hypothetical alternative proposal that would not be in accordance with the policies set out in the relevant NPS, or would not be

commercially viable or be on sites that would not be physically suitable or are vague or inchoate can be excluded on the grounds that they are not important and relevant to the SoS's decision (NPS EN1, Paragraph 4.4.3); and

- where an alternative is first put forward by a third party after an application has been made, the SoS may place the onus on the person proposing the alternative to provide the evidence for its suitability and should not necessarily expect the Applicant to have assessed it (NPS EN1, Paragraph 4.4.3).

- 5.1.7. In relation to the viability of grid connection, the Applicant should ensure that there will be infrastructure capacity within an existing or planned distribution network to accommodate the electricity generated and liaise with the relevant distribution network operator to secure a grid connection (NPS EN1, Paragraph 4.9.1). In reaching a decision the SoS should be satisfied that there is no obvious reason why a grid connection would not be possible (NPS EN1, Paragraph 4.9.1). The SoS should also take into account that National Grid has a statutory duty to provide a connection whenever and wherever one is required and is also required to bring forward efficient and economical proposals in terms of network design, taking into account current and reasonably anticipated generation demand (NPS EN5, Paragraph 2.3.5).

Other Legislation and Policies

- 5.1.8. Other legislation, policies and guidance relevant to Assessment of Alternatives for the Proposed Development are set out in the ES [APP-089, Section 3.2]. The ES also provides wider policy and legislative context [APP-088] [APP-285, Section 5] and in Chapter 3 of this Recommendation Report. The Applicant's Planning Statement also sets out the national, regional and local planning policies that are considered relevant to the Proposed Development [AS-031].
- 5.1.9. For the Assessment of Alternatives, National Grid Company's, Substations and the Environment: Guidelines on Siting and Design or The Horlock Rules are relevant best practice to identify the most appropriate location to site the onshore substation.

5.2. THE APPLICATION

Environmental Statement

- 5.2.1. The Applicant's assessment of Alternatives and Grid Connection is set out in the ES in Chapter 3 Site Selection & Assessment of Alternatives [APP-089] and accompanying figures [APP-116] and appendices [APP-175] [APP-176] [APP-177]. The other application document that is relevant is Chapter 4 Project Description [APP-090].

Scope and Methodology

- 5.2.2. The ES sets out that the Applicant's approach to siting and design of various aspects of the onshore and offshore part of the Proposed Development has taken account of physical constraints, and environmental, technical, commercial and social considerations. This included formal and informal consultation through the Scoping Report, and with statutory bodies and local communities [APP-089, Section 3.3].
- 5.2.3. Various project design decisions were made by the Applicant as a result of the consultation process and feedback received including, the decision to develop Sheringham Shoal Wind Farm Extension Project (SEP) and Dudgeon Wind Farm Extension Project (DEP) as an integrated project with an integrated grid option, selection of the landfall at Weybourne and the use of long horizontal directional drilling (HDD), other decisions relating to the export cable corridor through the Marine Conservation Zone (MCZ), the siting of the new onshore substation in proximity to the

existing Norwich Main substation, commitment to trenchless techniques such as HDD for onshore construction, and reducing the onshore working width in sensitive areas [APP-089, Section 3.3].

5.2.4. The Applicant's consideration of alternatives for the main components of the Proposed Development are summarised here:

- 1) Strategic design alternatives for aspects such as, integrated or separated grip option, overhead lines of buried onshore cables, and cable installation method at the landfall, and reason for selecting a preferred option has been explained [APP-089, Section 3.4, Table 3-3].
- 2) The offshore location of the Proposed Development was largely driven by The Crown Estate's criteria for Agreement for Lease (AfL) applications for the extensions to Offshore Windfarms (OWF) [APP-089, Section 3.5] [APP-116, Figures 3.1 to 3.3].
- 3) Following the completion of the Connection and Infrastructure Options Note (CION) process, National Grid made a grid connection offer to the Applicant in April 2019 for connection at Norwich Main substation, which would accommodate both SEP and DEP [APP-089, Section 3.5].
- 4) The 17 sites within five zones considered to accommodate the proposed permanent above ground infrastructure (sub-station), the criteria used to assess the suitability of the site options and the reasons for selecting the preferred site (Site 1) such as, avoidance of settlement of high heritage importance, natural low point within the landscape, avoidance of area of potential surface water flood risk and at least 500 metres (m) from nearest residential properties, has been explained [APP-089, Section 3.10] [APP-175] [APP-116, Figure 3.8 to 3.10].
- 5) The reasoning for selecting Weybourne (West) as the preferred landfall site compared to the other two options, Bacton and Happisburgh, and the corresponding selection of the offshore export cable corridor, due to reasons such as lower elevation at the coastline, shorter export cable corridor, environmental sensitivities and designations, less offshore cable and pipeline crossings, and higher confidence in the feasibility of horizontal directional drilling, has been explained [APP-089, Section 3.7] [APP-176] [APP-116, Figure 3.4].
- 6) Selection of the preferred site for the main construction compound out of eight potential sites, the criteria used for the assessment, and the reasons for selecting A1067 Fakenham Road as the preferred option, including feedback from Norfolk County Council (NCC) in their role as Local Highway Authority and its acceptance of the new access, has been explained [APP-089, Section 3.9.4] [APP-177].
- 7) Three search area options have been considered for the onshore cable corridor and the preferred route and proposed boundary has been determined on the bases of constraint mapping, reducing the number of affected landowners, engineering and constructability feasibility, investigations, and to avoid conflict with future developments [APP-089, Section 3.9] [APP-116, Figures 3.5 to 3.6].

5.3. LOCAL IMPACT REPORTS (LIR)

Norfolk County Council

- 5.3.1. NCC in its LIR has expressed a preference for an integrated approach of all the proposed Development Scenarios as this would be less disruptive in terms of construction of the onshore infrastructure needed, in NCC's view [REP1-080]. NCC's views regarding alternatives in specific aspects of design have been reported in relevant chapters of this Recommendation Report.
- 5.3.2. NCC highlights that there are separate proposals by National Grid to reinforce the electricity transmission network (400 kilo Volt (kV) overhead power lines) between Norwich Main substation and Tilbury substation in Essex, known as the East Anglia

Green Project, which is needed according to the National Grid to increase capacity into the existing network to cater for additional electricity generated principally from the offshore wind energy sector.

- 5.3.3. NCC also sets out that the Applicant, the Planning Inspectorate and the SoS need to be aware of these on-going issues regarding the need for improved access to new electricity infrastructure to support the planned housing and employment growth across the Norfolk; and recognise the need for joined-up/collaborative approach between the various infrastructure providers to deliver power where it is needed in Norfolk.
- 5.3.4. There are no substantive comments relating to alternatives or grid connection in any of the other submitted LIRs.

5.4. THE EXAMINATION

- 5.4.1. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on are:
- 1) Assessment of Alternatives in Relation of the Choice of the Substation at Norwich Main.
 - 2) Viability of Proposed Grid Connection.
 - 3) Consideration of Offshore Transmission Networks (OTN) or Offshore Ring Main (ORM).
 - 4) Alternative access routes.

Assessment of Alternatives in Relation of the Choice of the Substation at Norwich Main

- 5.4.2. Several parties in their Relevant Representations (RR), at the Open Floor Hearing (OFH) 1 [EV-009] [EV-010] and in their Written Representations raised concerns regarding the choice of Grid Connection at Norwich Main, rather than at Walpole or Sutton Bridge which is closer to the coast. Parties felt it was important for National Grid to engage publicly with this Examination and explain why the grid allocation cannot be re-negotiated [RR-003] [RR-005] [RR-019] [RR-026] [RR-027] [RR-039] [RR-040] [RR-049] [RR-055] [RR-073] [RR-086] [RR-111] [RR-113] [RR-122] [REP1-103] [REP1-104] [REP1-145] [REP1-150] [REP1-174] [REP1-072] [REP1-087] [REP1-147] [REP3-172].
- 5.4.3. The ExA acknowledged the information in the ES [APP-089] [APP-175] and queried National Grid Electricity System Operator Limited (NGESO) on behalf of National Grid or National Grid Electricity Transmission plc (NGET) which, if any, alternative grid connections, other than Norwich Main, were offered to the Applicant. The ExA also asked what criteria NGESO considered in making the connection offer to the Applicant. For instance, given its distance in-land, the ExA asked what factors made Norwich substation the best option for the grid connection. Further explanation was sought from NGESO and the Applicant on the preparation of the CION [PD-010, Q1.2.2.1].
- 5.4.4. NGESO responded that CION was a collaborative process resulting in a preferred point of connection to the transmission system to inform the connection offer and scope of the transmission works. NGESO said that the CION identified the overall most economic, efficient and co-ordinated connection option. Planning and environmental considerations were inherent in the process as the option identified would need to be feasible in terms of consenting and deliverability [REP1-188, Q1.2.2.1].

5.4.5. In response the Applicant reiterated and signposted material in the ES, highlighting the methodology that was followed, the early constraints and design considerations associated with the site selection [REP1-037, Q1.2.2.1]. The Applicant also submitted a letter from Minister of State for Energy and Climate (Graham Stuart MP) dated January 2023 to East Anglian communities and interested groups [REP1-038, Appendix B.2, Pages 471-473], which stated:

“Many people have written to their MP asking for a review to be launched regarding the planned electricity transmission infrastructure in East Anglia. In most cases, offshore wind developers in the region already have connection contracts in place with National Grid Electricity System Operator (ESO) and the Government will not, and cannot, force changes to these contracts; any attempt to mandate changes to connection contracts at this stage would be open to legal challenge by developers. Therefore, I do not think a review is the best approach. However, I recognise the concerns, and agree that we need to find ways of improving the situation.”

5.4.6. The ExA pressed both parties to submit a more comprehensive and complete response regarding the selection of grid connection at Norwich Main, with emphasis on the decision-making framework, alternatives considered, selection process and roles and selection criteria and weighting [PD-012, Q2.2.2.1] [EV-057] [EV-061].

5.4.7. Both Applicant and NGENSO provided the same response; while the responses included the CION guidance, the Applicant did not consider the CION guidance to be a material consideration. The parties explained that NGENSO’s grid connection offer is regulated separately under a different relevant legislative framework. Subsequently both responses provided background to the NGENSO-led process in generic terms, and not specific to the Proposed Development. Regarding the Proposed Development, the parties said that no alternative grid connections were offered for the Proposed Development, because the CION process considered a range of potential options but resulted in only Norwich Main being offered to the Applicant.

5.4.8. The parties said that Walpole 400 kV was one of the sites considered during the initial stages of the CION process in 2018, but it did not make the shortlist of sites taken forward, due to a number of issues including: limited space on site, substation considered full for generation, fault level issues and lack of thermal capacity. It was also the case that the seabed routes to Walpole around the Wash were believed to be at capacity with no further available space for more cables. For this and other reasons, alternative grid connections were not studied within the ES as none were under consideration [REP3-101] [REP3-137].

5.4.9. The ExA asked Interested Parties (IP) and other persons, if they have any additional comments relating to Applicant’s approach to grid connection at Norwich Main in light of the letter written by the Minister. While some further representations were received [REP4-041] [REP5-055], they did not provide any substantively new evidence for further consideration in the Examination.

ExA’s Reasoning

5.4.10. The ExA would have liked more transparency from the Applicant and NGENSO with regards to the specific process followed, and the alternatives considered that led to the choice of grid connection at Norwich Main. The ExA is convinced by the response provide by the Applicant and NGENSO, corroborated by each other, relating to the unsuitability of Walpole, which was the main alternative put forward by the IPs, for the grid connection for the Proposed Development, on technical and environmental grounds.

- 5.4.11. The ExA also must take into account that while options were considered as part of the CION process, the Applicant was in fact only offered a connection at Norwich Main. As such, it was not in the Applicant's gift to consider alternative substation locations as part of its EIA process. As far as the CION process is considered, the ExA is persuaded by the Applicant that that is not a material consideration in this Examination.
- 5.4.12. Furthermore, the ExA must consider two further pieces of evidence: first, that NGENSO's grid connection offer is regulated separately under a different relevant legislative framework and second, that the Minister has stated only recently that the Government will not, and cannot, force changes to connection contracts in place with NGENSO. It is clear to the ExA that the consideration of alternative grid connections is beyond the scope of this Examination.
- 5.4.13. Taking into account the considerations in NPS EN1, Paragraph 4.4.3, the ExA concludes that the Proposed Development meets the requirements in Paragraph 4.4.2. The ExA's conclusion here has been taken into account in its overarching conclusion on the Assessment of Alternatives in Chapter 4 of this Recommendation Report.

Viability of Proposed Grid Connection

- 5.4.14. The ExA sought clarification [PD-012, Q2.2.2.1] if the Applicant had a connection contract in place for the Proposed Development at Norwich Main substation, particularly with reference to the letter written by Minister of State for Energy and Climate, dated January 2023 [REP1-038, Pages 471-473, Paragraph 3].
- 5.4.15. The Applicant confirmed [REP3-101, Q2.2.2.1] that as set out in the Cable Statement [APP-283, Paragraph 7] submitted with the application, a Grid Connection Agreement had been secured for a connection located at the Norwich Main substation in Norfolk in November 2022. The Grid Connection Agreement with NGET has a connection date of 2027 for the 719 Megawatts (MW) existing capacity (stage 1). The Applicant had since made a Modification Application (ModApp) to National Grid for an increase in transmission entry capacity such that the grid connection is available and secured should there be any future opportunity to amend the capacity in the Agreement for Lease prior to construction of the Proposed Development. The ModApp signed allows for the increase in transmission entry capacity at a connection date of 2031 (stage 2).
- 5.4.16. Several written and oral submissions [too numerous to list], made reference to the East Anglia Green project (now known as the Norwich to Tilbury project), and stated that there is functional interdependence between that project and the Proposed Development. It was further suggested that the Proposed Development could not go ahead without the Norwich to Tilbury project first in place.
- 5.4.17. The ExA asked [PD-010, Q1.9.1.5] the Applicant if there is not adequate capacity within the existing onshore electricity transmission and distribution system, without Norwich to Tilbury in place, and whether this could represent an impediment to the delivery of the Proposed Development. In response, the Applicant set out [REP1-036, Q1.9.1.5] that the grid connection offer for Proposed Development was signed in 2019 and is not conditional upon the delivery of the Norwich to Tilbury project.
- 5.4.18. The concerns of numerous interested parties remained at the end of the examination in relation to the relationship between the Proposed Development and the Norwich to Tilbury project.

ExA's Reasoning

- 5.4.19. The ExA notes the signed grid connection contract that the Applicant has secured with National Grid at Norwich Main substation. The reflects the requirements of NPS EN1 (Paragraph 4.9.1) where an Applicant should ensure that there will be infrastructure capacity within an existing or planned distribution network to accommodate the electricity generated and liaise with the relevant distribution network operator to secure a grid connection.
- 5.4.20. The ExA is satisfied from the information provided by the Applicant that the signed grid connection contract does not depend on the delivery of the Norwich to Tilbury project. The ExA does acknowledge that additional NGET infrastructure will be needed to accommodate future energy generation in the East Anglia area. However, the ExA is of the view that this is a matter for NGET to address and not the Applicant given the signed grid connection contract that is in place. It is also evident that National Grid are actively seeking to address the issue. Further, as set out in NPS EN5 (Paragraph 2.3.5), NGET has a statutory duty to provide a connection whenever and wherever one is required.

Consideration of Offshore Transmission Networks (OTN) or Offshore Ring Main (ORM)

- 5.4.21. Several parties argued that the option for an OTN or ORM for offshore connections and cabling routes to landfall in Essex/Thames Estuary should also be considered [RR-121] [RR-077] [RR-026] [REP1-106] [RR-006] [RR-007] [RR-019] [RR-086].
- 5.4.22. The Applicant responded that while it was supportive of the idea of an OTN, neither the regulatory nor technical framework exists at this current time to incorporate this into the projects [REP1-033] [REP1-034].

ExA's Reasoning

- 5.4.23. There is no policy position in the NPSs that enable the ExA to explore options relating to OTN. The ExA agrees with the Applicant and concludes that such an alternative cannot be considered within the scope of this Examination.

Alternative Access Routes

- 5.4.24. Mr Barnard holds land interest which the Applicant proposes to acquire for the Proposed Development [APP-008, Sheet 33 and 34]. Mr Barnard stated that the Applicant was proposing to gain access to the cable corridor from the B1172 Road at a point that adjoins residential property and car sales garage, and would be impractical for frequent use. He proposed an alternative route further west and closer to the cable corridor and would reduce the length of the access [REP1-169]. Mr Barnard also stated that the Applicant's proposed access would involve crossing the cycleway soon after turning off road with poor visibility along the cycle path [REP3-170].
- 5.4.25. The ExA explored the matter further [EV-031] and these points were reiterated by Mr Barnard's representative. The Applicant confirmed that the access referred to in Mr Barnard's submission was to be used for early works (ACEW99) and construction (ACC60). The Applicant stated that the access proposed by Mr Barnard would conflict with Ketts Oak and surrounding trees, and lead to loss of vegetation; and for that reason the Applicant was seeking to keep the access further away from that group of trees [REP2-017] [REP3-113] [EV-068] [EV-072]. The Applicant also [REP4-040] explained that the Applicant's proposed access (ACC60) would be at a location where the speed limit was lower and it was closer to the built-up area, at a location where cyclists and motorists would know to expect turning movements. On the other hand, Mr Barnard's proposed access point would be set back from the edge of the

road behind trees and hedges, obstructing intervisibility between cyclists on the cycleway. To facilitate safe turning movements in this location the Applicant would require the removal of further vegetation.

- 5.4.26. At an Unaccompanied Site Inspection (USI) the ExA visited the proposed access ACC60 on the B1172, and from there walked along the footpath/ cycleway to view Mr Barnard's alternative accesses [EV-094].

ExA's Reasoning

- 5.4.27. The ExA was able to witness the Applicant's rationale for retaining its proposed access points on account of better visibility for cyclists and motorist, and to avoid loss of vegetation. On that basis, the ExA finds that Mr Barnard's proposed access would not be suitable.

5.5. CONCLUSIONS

- 5.5.1. The ExA is convinced with the reasons provided that deem Walpole unsuitable for a grid connection for the Proposed Development. Given the Applicant was only offered a connection at Norwich Main, the assessment of alternative grid connections was not possible or indeed required as part of its EIA process. Ultimately, given that NGESO's grid connection offer is regulated separately under a different relevant legislative framework, and also the Government cannot influence changes to connection contracts in place with NGESO, it is clear to the ExA that the consideration of alternative grid connections is beyond the scope of this Examination.
- 5.5.2. Taking into account the considerations in NPS EN1, Paragraph 4.4.3, the ExA concludes that the Proposed Development meets the requirements in Paragraph 4.4.2. The ExA's conclusion here has been taken into account in its overarching conclusion on the Assessment of Alternatives in Chapter 4 of this Recommendation Report.
- 5.5.3. The ExA is content that a viable grid connection has been secured in accordance with Paragraph 4.9.1 of NPS EN1 and Paragraph 2.3.5 of NPS EN5. This is a matter of neutral weight in the planning balance.
- 5.5.4. There is no policy position in the NPSs that enable the ExA to explore options relating to OTN. ExA agrees with the Applicant and concludes that such an alternative cannot be considered within the scope of this Examination.
- 5.5.5. With regard to the alternative access proposed by Mr Barnard instead of the Applicant's proposed access ACC60, the ExA was able to witness at an Unaccompanied Site Inspection, the Applicant's rationale for retaining its proposed access points on account of better visibility for cyclists and motorist, and to avoid loss of vegetation. On that basis, the ExA finds that Mr Barnard's proposed access would not be suitable.

6. DESIGN

6.1. BACKGROUND AND POLICY CONTEXT

6.1.1. Design was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the design development process and selection of preferred designs, security of the detailed design process and engagement post-consent, consideration of good design outcomes in the development of the scheme, including site selection, layout fitness for purpose, contribution to the quality of the area in which it would be located and consideration of good design outcomes to mitigate adverse effects in a range of receiving environments, both onshore and offshore.

National Policy Statement

6.1.2. The assessment for Design as set out in the Overarching National Policy Statement for Energy (NPS EN1) and the National Policy Statement for Renewable Energy Infrastructure (NPS EN3) requires from the Applicant:

- that proposals for renewable energy infrastructure should demonstrate good design in respect of landscape and visual amenity (EN1, Paragraph 2.4.2);
- demonstration in their application documents how the design process was conducted and how the proposed design evolved (EN1, Paragraph 4.5.4);
- both Applicants and the decision maker should consider undertaking an independent design review process on the design aspects of a proposal (EN1, Paragraph 4.5.5);
- that its assessment should report on the visibility and conspicuousness of the project at construction as well as the operational effects on views and visual amenity (EN1, Paragraph 5.9.7); and
- consideration of guidance concerning applications affecting nationally designated landscapes, such as National Parks and Areas of Outstanding Natural Beauty, (EN1, Paragraphs 5.9.9 to 5.9.11).

6.1.3. In reaching a decision the Secretary of State for Energy Security and Net Zero (SoS) should consider whether:

- energy infrastructure is sustainable, attractive, durable, and adaptable within regulatory constraints, considering natural hazards. Applicants should balance functionality, aesthetics, and site design. Good design can enhance surroundings, especially in associated developments like electricity substations (EN1, Paragraph 4.5.3);
- the overall balance of any adverse effects and whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project (EN1, Paragraph 5.9.15);
- the duration and reversibility of any adverse effects and whether any adverse impact on the landscape will be capable of being reversed in a timescale that the SoS considers reasonable (EN1, Paragraph 5.9.16);
- the design mitigation of the project has sought to minimize harm to the landscape has been considered (EN1, Paragraph 5.9.17);
- the question of whether the visual effects on sensitive receptors outweigh the benefits of the project has been considered (EN1, Paragraph 5.9.18);
- scaling down a project can reduce visual and landscape impact, but it may limit functionality and output. In rare cases, when mitigation greatly benefits landscape and visuals, slight function loss may be accepted (EN1, Paragraph 5.9.21); and
- where the Applicant has identified a precise route for the cable from the wind farm to a precise location for the onshore substation and connection to the transmission network, the Environmental Impact Assessment (EIA) should assess the effects of the cable (EN3, Paragraph 2.6.37).

Other Legislation and Policies

- 6.1.4. Other legislation, policies and guidance relevant to the Proposed Development are set out in the Environmental Statement (ES) Chapter 9.1 – Planning Statement [APP-285, Section 5, Chapter 9.3 – Design and Access Statement (Onshore) [APP-287] and in Chapter 3 of this Recommendation Report.
- 6.1.5. The National Planning Policy Framework 2021 (NPPF) has been a relevant consideration for Nationally Significant Infrastructure Project (NSIP) development proposals in respect of Design. The ExA notes that the NPPF was updated by the Secretary of State for Levelling Up, Housing and Communities in September 2023, after the close of the Examination into the Proposed Development, to update policy on planning for onshore wind development in England. The nature of these changes to the NPPF do not alter the Examining Authority’s (ExA’s) consideration of design for the Proposed Development

6.2. THE APPLICATION

Environmental Statement

- 6.2.1. The Applicant’s assessment of Design is set out in the ES in its Design and Access Statement (DAS) (Onshore) [APP-287], Other application documents that are relevant include Project Vision [APP-313] and Project Description [APP-090].

Scope and Methodology

- 6.2.2. In its DAS [APP-287], the Applicant sets out that its design proposals are indicative, but that design proposals and conclusions drawn are based on the maximum design parameters set out in the dDCO [REP8-005] which would occur as a result of the maximum land take; longest durations of operation, and maximum height / size of development associated with the Proposed Development.
- 6.2.3. The Applicant notes that it is seeking to co-ordinate the development of Sheringham Extension Project (SEP) and Dudgeon Extension Project (DEP) as far as possible. Its preferred option is a Development Scenario with an integrated transmission system, providing transmission infrastructure which serves both of the wind farms.
- 6.2.4. A more detailed explanation, summary and ExA’s conclusions on the Applicants approach to its scenarios for the Proposed Development is set out in Chapter 4 of this Recommendation Report.
- 6.2.5. The DAS aligns the Applicants approach with principles to guide the planning and delivery of major infrastructure projects established by the National Infrastructure Commission (NIC):
- Climate.
 - People.
 - Places.
 - Value.
- 6.2.6. The Applicant has added an additional objective of safety, [APP-287, Paragraph 2.2.2] in order to reflect its commitment to providing a safe and secure environment for those working at its facilities and job sites.

Applicant’s Assessment of Effects and Proposed Mitigation

- 6.2.7. By aligning the design of the Proposed Development with the NIC objectives, the Applicant believes [APP-287, Paragraph 2.2.3] that it will ensure that the Proposed

Development fits sensitively into the local context, mitigating and providing enhancements to community and environment where possible whilst achieving the requirements of energy production to help meet growing demand for low carbon energy.

- 6.2.8. The Applicant notes [APP-287, Paragraph 3.2.1] that the onshore elements of the Proposed Development are located within a landscape characterised by coastal and rural areas and has provided an overview of national and local landscape character areas and assessments which are relevant to the Proposed Development [APP-287, Paragraph 3.2.2].
- 6.2.9. The Applicant has confirmed that it carried out a programme of community and stakeholder consultation in order to inform the EIA and design processes for the Proposed Development. Details of this process and the parties involved in it were submitted with the application in the Applicant's Consultation Report [APP-029].
- 6.2.10. The DAS [APP-287] establishes the Applicant's key design principles onshore as:
- 1) The intention to co-ordinate the Proposed Development of SEP and DEP as far as possible.
 - 2) The use of underground cables onshore to reduce the need for above ground infrastructure.
 - 3) Avoidance of sensitive features including settlements, landscape and habitat features (including designated nature conservation sites), and designated landscapes, such as NNHC through the careful planning of the proposed cable route.
 - 4) The proposed use of trenchless crossing techniques to minimise disturbance to above ground features where it is not possible to avoid them.
 - 5) The proposed implementation of reduced work widths will be adopted to minimise disturbance to above ground features where trenchless crossings are not used.
 - 6) The replacement of landscape features where removed, wherever possible.
 - 7) Design proposals which seek to deliver a biodiversity net gain using the current Defra Metric.
- 6.2.11. The Applicant notes that the location of the onshore substation was subject to an extensive site selection process accounting for various technical and environmental constraints in accordance with National Grid's Guidelines on Substation Siting and Design ('The Horlock Rules'). Its site selection process was underpinned by a series of design assumptions and site selection principles which were used as a transparent framework for making site selection decisions.
- 6.2.12. The Applicant explains [APP-287, Section 7.0] proposed site for the substation was chosen by the Applicant because:
- it would be located a short distance from the Norwich Main substation, allowing for a short distance for the necessary 400 kilovolt (kV) cable connection;
 - the site is not located in any national or international designated areas;
 - the site located adjacent to existing infrastructure – Norwich Main substation and associated overhead wires and pylons, railway lines, the A140 and A47;
 - the proposed site is described by the Applicant as low biodiversity value agricultural land;
 - it is located at a natural low point within the landscape, enclosed by mature trees and woodland;
 - there would be few residential receptors in close proximity to the site;
 - it has been assigned low perceived heritage significance;
 - it is accessible via the A140; and

- community feedback indicated a slight preference for this site due to its proximity to the A140 and the presence of existing screening features.

6.3. LOCAL IMPACT REPORTS (LIRs)

North Norfolk District Council (NNDC)

- 6.3.1. NNDC [REP1-082] notes that the Proposed Development would pass through some sensitive and valued landscapes and this emphasises the importance of key design considerations which will help to reduce overall impacts, both short, medium and long-term.

South Norfolk Council (SNC)

- 6.3.2. SNC [REP1-090] note that policies DM3.8 of its Local Plan, Policy 2 of the Joint Core Strategy for Broadland, Norwich and South and the NPPF require high quality design with importance being attached to the design of the built environment, which is seen as a key aspect of sustainable development.
- 6.3.3. SNC notes that it appreciates that the design of the substation is functionally lead, however key to trying to mitigate the potential impact of the substation on the open countryside, which is presently a rural landscape setting, is the careful consideration of the material palette - in particular its colours. Given the possible size and scale of the substation – 15 metres (m) in height - landscaping/planting would not minimise the impact of the substation at its higher level.
- 6.3.4. The Council notes that dDCO Requirement 10: Detailed design parameters onshore, states that external appearance and materials are to be agreed with the Local Authority. Should the proposed development be granted consent, the Council would wish to work with the Applicant to ensure appropriate and sensitive materials and colours are used in the development, having regard to minimising its impact on the character and visual appearance of the area.
- 6.3.5. LIRs submitted by other Local Authorities (LAs) were silent on matters relating to design, or did not make substantive points that the ExA felt were necessary to take further during the course of the Examination.

6.4. THE EXAMINATION

- 6.4.1. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:
- 1) the suitability and adequacy of the Applicant’s approach to design;
 - 2) the evidence provided by the Applicant to demonstrate the quality and suitability of its design process; and
 - 3) the need, or otherwise, for the Applicant to engage in an independent design review process.
- 6.4.2. During the Examination and the pre-examination period, the ExA carried out a series of Unaccompanied Site Inspections (USIs) [EV-094] in order to observe the areas potentially affected by the Proposed Development at first hand. In addition, the ExA carried out two Accompanied Site Inspections (ASIs) [EV-004] and [EV-028]. The observations made and insights gained during these site inspections have been taken into account by the ExA in its conclusions on the matters set out below.

The suitability and adequacy of the Applicant’s approach to design

- 6.4.3. The ExA sought to examine the Applicant's approach to design [EV-022], with a specific emphasis on exploring whether the Proposed Development would align with national policy requirements for projects to demonstrate sensitivity to place and to contribute to the quality of the area in which they would be located. The ExA continued this line of inquiry in its first round of written questions (WQ1) [PD-010, Q1.10.1.1].
- 6.4.4. The Applicant responded [REP1-032] with reference to its DAS [APP-287] that its approach had been grounded in an understanding which was supported by extensive baseline surveys undertaken by multiple relevant experts, for example surveys of biodiversity, settlements and landscape character. It continued that its design development process had been undertaken alongside the EIA process in an iterative way. As a result of this process the Applicant took the view that its approach to design was suitable and adequate and the Proposed Development would represent good design.
- 6.4.5. The Applicant further explained [REP1-036] that national policy relating to infrastructure design seeks to promote sustainable infrastructure that is sensitive to place, efficient in the use of natural resources and energy and that is matched by an appearance that demonstrates good aesthetic as far as possible. However, the Applicant also noted that the same policies also recognise that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area.
- 6.4.6. Within the same question, the ExA also asked whether the Applicant's design outcomes relating to proposed elements of infrastructure, structure and buildings proposed within the order limits, flood risk, landscape and ecology were sufficiently well developed within the application documents.
- 6.4.7. The Applicant responded [REP1-036, Q1.10.1.1] that iterative multi-disciplinary workshops and consultations where it shared design development with stakeholders had been undertaken throughout the process to identify optimum solutions which met its project objectives and responded appropriately to environmental and technical constraints whilst maintaining project viability. The development of the Applicants design principles and the approach to design and outcomes was therefore viewed as robust by the Applicant, as having been informed by the policy objectives of National Planning Policy, particularly NPS-EN1 and 3, and guidance by NIC and as providing a clear framework for detailed design to be completed post consent to ensure good design outcomes.
- 6.4.8. In response to the same question, NCC, as Lead Local Flood Authority (LLFA) [REP1-079] noted that it awaited the Applicants updated surface water management design for the Onshore Substation site before being able to respond appropriately. Previously the LLFA had only had sight of two high level options that were being considered.
- 6.4.9. SNC, in its response to the same question [REP1-102], noted that its principal consideration was the substation which was proposed to be functional in form and the design of which was dictated by its use. SNC considered that the Design objectives listed in the DAS were sufficiently covered in the submitted documents and the draft requirements.
- 6.4.10. BDC also responded to this question [REP1-071], noting that its main consideration was the cable route and that in this context it considered that the Design objectives listed in the DAS were sufficiently covered in the submitted documents and the draft requirements.

- 6.4.11. No further substantive questions or matters were raised by SNC or BDC on this subject before the close of the Examination

ExA's Reasoning

- 6.4.12. The ExA considers that the Applicant's approach to design and its implementation of its design process remains incomplete at the close of the Examination. The nature of the NSIP process will inevitably dictate that a number of design-related issues remain unresolved at application stage, but the Applicant should still be able to demonstrate how its design process has considered these issues and the possible resolutions to design problems that it could implement in the event that the SoS makes a decision to grant development consent.
- 6.4.13. The ExA agrees with the Applicant and relevant LAs that its approach to the design of infrastructure elements offshore, at landfall and the cable corridor are resolved and described by the Applicant to a level which is reasonable for this stage of the Proposed Development.
- 6.4.14. However, the ExA remains concerned that the onshore element which would have the greatest visual impact - namely the onshore substation compound – has not been resolved to a level that the ExA considers appropriate at this stage. Neither does the ExA find, based on the evidence submitted to it at application stage, or during the Examination, that the Applicant has demonstrated that it has engaged in a design process with the aim of identifying both the design challenges its proposed onshore substation might face and the possible design solutions it could implement in order to address these challenges. These concerns are explored in further detail in the subsequent sections of this chapter.

The evidence provided by the Applicant to demonstrate the quality and suitability of its design process

- 6.4.15. The ExA asked the Applicant [EV-022] [PD-010, Q1.10.1.2] if the information submitted demonstrated its ability to satisfy the SoS that the Proposed Development would be (having regard to regulatory and other constraints) as attractive, durable, adaptable and as sustainable as it could be. The ExA was particularly interested in exploring this within the context of the onshore substation, since it would be the element of the Proposed Development with the greatest visual impact on land in the operational phase.
- 6.4.16. The Applicant responded [REP1-036] with reference to information set out in its DAS [APP-287], further explaining the rationale which governed its approach to the reshaping of the natural topography to create a six hectare (ha) platform on which the substation would be placed, allowing for either one 50m x 25m control/switchgear building in the concurrent and integrated scenario or two 30m x 14m wide buildings in a sequential scenario. The Applicant also noted that in the scenarios where only one wind farm would be constructed the platform size would reduce to an area of up to 3.25ha. Evidence in the form of a visualisation for this scenario was not, submitted by the Applicant to the Examination.
- 6.4.17. The Applicant went on to explain [REP1-036] that it proposed the creation of semi natural grasslands and habitats, as well as new native woodlands to supplement the existing woodland framework which defines the site would also assist in making the substation as attractive as it could be, recognising there are limits related to the functionality of the electrical equipment. The Applicant has also proposed existing, and in time new woodland, which it suggests would ensure that the substation structures would be screened as far as possible, helped by the local topography.

- 6.4.18. The ExA noted that there would invariably be limitations to the elements of infrastructure that an Applicant had control of in terms of its design and external appearance. With this in mind, the ExA sought to understand from the Applicant [PD-010, Q1.10.1.3] where it believed it would have the opportunity to exercise greater design choice and asked the Applicant to outline the design approach taken to ensure that these elements, when taken together with the whole of the substation proposal, or proposals, would provide both a sense of identity and an improvement to the surrounding environment. The ExA also asked the Applicant to provide additional visual information to support its response.
- 6.4.19. The Applicant responded [REP1-036, Q1.10.1.3], noting that there were a number of elements for which there remained a design choice and over which LAs would ultimately have control, as defined in dDCO Requirements. These elements were listed by the Applicant as follows:
- platform ground modelling;
 - buildings and structures to be simple, functional and in keeping with Norwich Main;
 - the use of colour will be important;
 - fencing-to meet safety and regulatory requirements, but colour could be informed by colour studies, as for buildings;
 - hard surfacing within compound to include parking would be simple durable gravel, slab or asphalt;
 - native species and habitats to reflect and enhance local character in areas surrounding the substation, this should include habitat creation and woodland planting; and
 - the access track to substation would be compacted local stone/gravel to blend in, soft verges.
- 6.4.20. The Applicant did not submit further visual information to support the case for its design approach to the elements listed above, noting that it had provided guidance in its DAS [APP-287] which included visual information regarding layout (Fig 7.4), precedent images (Fig 7.2 and 7.3), visualisation (Fig 7.5) and cross sections (Fig 7.6 and 7.7). The Applicant's view was that the level of detail provided by it was appropriate for a project of this nature.
- 6.4.21. The ExA [EV-060] [PD-012] noted that the proposed cut and fill platform which would be created as a base for the substation buildings and infrastructure did not closely follow the existing topography of the proposed site. It was confirmed by the Applicant [REP3-101, Q2.10.1.1] that the platform level would be approximately 4m higher than the lowest level of the proposed site. The ExA noted [EV-060] that this approach would inevitably lead to a greater need for a sensitive design solution and a greater degree of landscape mitigation requirement in order to lessen the magnitude of visual effect which would result from a proposed substation or substations in this location. The ExA further questioned [PD-012, Q2.10.1.2] why it would not be possible for the layout of proposed substation buildings and equipment to more closely follow the natural topography of the site.
- 6.4.22. The Applicant responded [REP3-101, Q2.10.1.2] that a solution which followed the natural contours of the land would not be possible as a single flat area would be required operationally and that there would be a need to ensure that the substation compound was elevated above the flood risk area at the lowest part of the site.
- 6.4.23. The ExA sought further evidence from the Applicant which would demonstrate that it had begun a process of careful consideration of building design and of materials which might be appropriate for the context within which the substation buildings were proposed. The ExA noted [EV-060] that whilst the DAS [APP-287] included some

wording related to materials and design, there was no information which represented anything beyond indicative massing for a generic building type, but which was not developed to be in any way site-specific.

- 6.4.24. The Applicant responded [REP3-110] with confirmation that in its view it was normal for indicative designs not to be created until the post-consent stage and that was the approach it had taken in this case as it had not appointed design contractors. The Applicant did, however, undertake to consider further whether indicative conceptual designs should be developed and submitted (including colours, materials, fencing and screening) and asked the ExA for guidance on the type of additional information it sought from the Applicant.
- 6.4.25. The ExA requested [PD-012, Q2.10.1.3] the additional information should include, but need not have been limited to the following:
- preliminary designs for the form of buildings within the onshore substation complex which would be enclosed by a building envelope;
 - preliminary proposals for the material types and colour range which the Applicant believes would be appropriate for any building envelopes; and
 - preliminary proposals which demonstrate the Applicant's design approach and commitment to the design quality of security fencing and other site screening proposals.
- 6.4.26. The Applicant responded [REP3-103, Section 2] to state that sufficient information had been provided by it to assess the effects and to demonstrate that these effects have been minimised in so far as possible at this stage of the Proposed Development and therefore did not provide the information requested by the ExA.

ExA's Reasoning

- 6.4.27. In considering the Applicant's design solution for the onshore substation, the ExA has been mindful of the criteria for good design for energy infrastructure as set out in NPS EN1. The SoS needs to be satisfied that the Proposed Development is as sustainable and, having regard to regulatory and other constraints, is as attractive, durable and adaptable (including taking account of natural hazards such as flooding) as it can be.
- 6.4.28. At the close of the Examination, the ExA remained concerned that the Applicant has not demonstrated a site-specific design approach for the element of the Proposed Development which would have the greatest visual impact, namely the onshore substation. The ExA takes the view that in failing to submit additional design information during the course of the Examination to support its approach that the Applicant did not present evidence of a sufficiently rigorous design process, particularly in relation the onshore substation, at application stage. The Applicant has stated that it has not taken the opportunity to work with the most appropriate professional design consultants available to it at this stage of the Proposed Development to assist it with the design of buildings of such significant scale and mass and did not present the ExA with evidence of alternative design solutions for the external appearance at an early stage in the design development of the Proposed Development and it is not clear to the ExA that the Applicant had explored the possibility of such alternatives. In doing so, it is the ExA's view that based on the evidence before it at the end of the Examination, the Applicant has not fully met the criteria for good design as set out in NPS EN1 paragraphs 4.5.3 and 4.5.4.
- 6.4.29. The ExA notes that the design of the onshore substation structures which form part of the Proposed Development would be constrained by technical requirements and notes that NPS EN1 section 4.5.1 acknowledges that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the

enhancement of the quality of the area. Whilst NPS EN1 section 4.5.3 notes that Applicants may not have any or very limited choice in the physical appearance of some energy infrastructure, the ExA does not, however, form the view that this applies to the design and use of materials related to the onshore substation.

The need, or otherwise, for the Applicant to engage in an independent design review process

- 6.4.30. The ExA asked [EV-022] the Applicant for further information on the design process followed for the Proposed Development during pre-application stages and onwards.
- 6.4.31. In response, the Applicant [REP1-032] stated that it had engaged in a structured design process with stages involving feasibility studies, option appraisals, indicative design stages and that the parameters of this process were continually updated. The Applicant believed that it had involved the full range of professionals that would be expected, for example engineers and landscape architects and that every topic from the ES has been engaged in the design process. The Applicant noted that it maintained overall control of the design process and that it sought to balance technical requirements with good design and reduction of impacts.
- 6.4.32. The ExA observed [EV-022] that the Applicant's description of its design process omitted the need to undertake an independent design review at any stage and questioned whether this had been something which the Applicant had considered during its design process.
- 6.4.33. The Applicant confirmed [REP1-032] that it had considered a design review process and it did not believe it was a necessary or appropriate because of the low level of landscape effects arising from the substation and because stakeholders had not requested it. The Applicant took the view that the substation is a functional building and there would be limited ability to influence its design beyond the important design decisions that have already been made through site selection. Other important project decisions, for example the decision to lay the cable route underground, represent what the Applicant categorises as significant and beneficial design decisions which have already been taken. The Applicant confirmed that it is comfortable that this approach is and would be policy compliant.
- 6.4.34. The ExA [PD-010, Q1.10.2.2] asked for broader comment on whether the Applicant should seek independent design review advice in line with the policy recommendation set out in NPS EN1, Paragraph 4.5.5.
- 6.4.35. The Applicant responded [REP1-036] that at that stage of the Examination no LA, or other stakeholder had requested independent design review. The Applicant continued to state that should relevant stakeholders/LAs consider that post-consent design review could add value, the Applicant would consider it. No Interested Parties offered further input on this topic in response to WQ1 [PD-010].
- 6.4.36. The ExA asked for additional comment from all parties on the benefits, or otherwise of an independent design review process to inform the design development of the onshore substation buildings and structures [EV-060].
- 6.4.37. The Applicant responded [REP3-110] that it had not ruled out an independent design review and would support this process if it was deemed to be required post-consent. However, the Applicant stressed that it believed that it was the LAs view which would be most important and that if they felt that they would be assisted by design review then the Applicant would be open to partaking in a design review process.

- 6.4.38. The ExA asked [PD-012, Q2.10.2.1] the Applicant to provide reasoning to support a design process which would not align with the intent of NPS EN1, Paragraph 4.5.5 wherein Applicants are encouraged to engage in an independent design review process.
- 6.4.39. In response [REP3-101], the Applicant reiterated the points it made during ISH4 [EV-060] and described in paragraph 7.4.37 above.
- 6.4.40. The ExA also requested in WQ2 [PD-012, Q2.10.2.1] that the Applicant provide wording for a requirement within the dDCO to secure an independent design review process for the Proposed Development in the event that the ExA concludes that it cannot report to the SoS that the Applicant has conducted a design process that meets the policy tests set out in NPS EN1, section 4.5.
- 6.4.41. The Applicant responded [REP3-101] with additional wording as requested and confirmed that it had also shared this wording with SNC for their comment. The Applicant's proposed wording is set out below [REP3-009, Requirement 10]:
- “(5) The details submitted under sub-paragraphs (1), (2) or (3) must:*
- (a) be in accordance with the Design and Access Statement; and*
- (b) if requested by the relevant planning authority, have been subject to an early independent design review which must consider whether sub-paragraph (a) has been satisfied and make recommendations for design improvements if not”*
- 6.4.42. The ExA also sought to better understand the role which SNC would envisage for themselves within a possible independent design review process and asked at WQ2 [PD-012, Q2.10.2.2] that it set out the role(s) that it would expect to undertake in the event that the Proposed Development were subject to such a process. The ExA also asked SNC to clarify whether it was confident that it would have the relevant expertise and experience in house to deliver post-consent approvals as defined in Requirement (R)10 within the dDCO, [REP8-005] in the event that the SoS makes the Order.
- 6.4.43. SNC responded [REP3-127] that it would be able to organise a review process and engage an independent design review organisation such as Design South East with an adviser and panel member. The Council would host the meeting which would include a site visit and discussion to include advisers, the Applicant's representatives, and the LA specialist officers. In the event that design changes were recommended as part of an independent design review process, SNC would see its role as driving those forward. In addition, SNC confirmed that it has planners, a Senior Heritage and Design officer and Landscape Architect who have significant experience of advising on all aspects of design and driving forward high quality design, in South Norfolk.
- 6.4.44. The Applicant [REP4-028], noted SNC's response related to an independent design review process and stated that it welcomed the opportunity to participate in such a process hosted by the LA.
- 6.4.45. The ExA noted the responses from both the Applicant and SNC on this matter and subsequently suggested further amendments to the Applicant's proposed additional wording for R10 [PD-018]. The ExA's proposed amendments to R10(5) were as follows:

*“(5) The details submitted under sub-paragraphs (1), (2) or (3) **and under Requirement 14** must:*

a) be in accordance with the Design and Access Statement; and

- b) ~~if requested by the relevant planning authority,~~ have been subject to **a design review process carried out by an independent design review panel to the satisfaction of the relevant planning authority and an early independent design review which must consider whether sub-paragraph (a) has been satisfied and make recommendations for design improvements if not.”**

6.4.46. The Applicant responded to the ExA’s proposed amendments to R10 [REP5-050] noting that it had incorporated the ExA’s proposed changes to the wording of R10(5) and R10(5)(b) of the dDCO [REP5-005]

6.4.47. The ExA noted the submissions from SNC and the Applicant on the topic of the Applicant’s design approach to the onshore substation. Having received proposed additional wording from the Applicant to secure an independent design review process under R10 of the dDCO [REP8-005], the ExA did not find merit in pursuing this topic further during the remainder of the Examination.

ExA’s Reasoning

6.4.48. At the close of the Examination, the ExA was not satisfied that the Applicant’s design process has been sufficiently rigorous, particularly when it comes to its approach to the onshore substation which would be the element of the Proposed Development that would have the greatest visual impact onshore.

6.4.49. The ExA has noted the Applicant’s initial reluctance to engage in an independent design review process unless requested to do so by the relevant LA and questions this position. The ExA views such a position as potentially at odds with the policy intent of NPS EN1 but finds no evidence to support a finding that the Applicant’s position on this matter was an attempt to escape its responsibilities in relation to NPS EN1.

6.4.50. The ExA’s view on this matter is strengthened by the Applicant willingness to provide wording to secure an independent design review process within R10 of the dDCO.

6.4.51. With this wording in place within the rDCO, the ExA is satisfied that the Applicant’s design process would be subject to sufficient scrutiny and the outcomes of that process would be sufficiently secured for it to meet the policy requirements set out within NPS EN1, section 4.5 and section 5.

6.5. CONCLUSIONS

6.5.1. The ExA takes the view that the design and appearance of the structures and buildings proposed for the onshore substation and the landscape design strategy must form part of a co-ordinated design response that meets the requirements set out in NPS EN1 paragraphs 5.9.8 and 5.9.16.

6.5.2. Having particular regard to section 4.5 of NPS EN1, the ExA notes that the Applicant has stated that it has not taken the opportunity to work with the most appropriate professional design consultants available to it at this stage of the Proposed Development to assist it with the design of buildings of such significant scale and mass and that it did not present the ExA with evidence of alternative design solutions for the external appearance at an early stage in the design development of the Proposed Development. It is not clear to the ExA, therefore, that the Applicant had explored the possibility of such alternatives. In doing so, it is the ExA’s view that based on the evidence before it at the end of the Examination, the Applicant had not undertaken a design process that is sufficiently robust to fully meet the criteria for good design for energy infrastructure. The ExA therefore, takes the view that the

application, as submitted, would not fully comply with NPS EN1 paragraphs 4.5.3 and 4.5.4.

6.5.3. However, the ExA welcomes the Applicant's amended wording to R10 into the rDCO to ensure that the onshore substation and surrounding new landscape proposals are subject to an independent design review process to ensure that they meet the criteria for good design and mitigate, as fully as possible, any adverse impact on the character of the surrounding landscape. For this reason, the ExA concludes that the Proposed Development would comply with NPS EN1 paragraph 4.5.5. The ExA would, nevertheless, have welcomed the opportunity to hear the views of IPs and to examine the outcomes of an initial design review process during the examination.

6.5.4. With the additional wording of R10 incorporated within the rDCO, the ExA is satisfied that that the Proposed Development would meet the criteria for good design set out in NPS EN1 and the Applicant's approach to the design of the Proposed Development would, therefore, carry neutral weight in the planning balance for all Development Scenarios.

OFFSHORE PLANNING MATTERS

7. OFFSHORE ORNITHOLOGY

7.1. BACKGROUND AND POLICY CONTEXT

7.1.1. Offshore ornithology, in the context of offshore ecology, was identified as a principal issue in the Examination within the published Rule 6 letter [PD-006, Annex C]. This chapter considers the effects from an Environment Impact Assessment (EIA) perspective upon offshore ornithology. European sites are subject to Habitats Regulation Assessment (HRA), which are detailed and considered within Chapter 26 of this Recommendation Report. There is, inevitably, some degree of overlap in the matters considered.

National Policy Statements

7.1.2. Section 5.3 of the Overarching National Policy Statement for Energy (NPS EN1) sets out policy considerations that are of relevance for biodiversity in general. Paragraphs 2.6.58 to 2.6.71 of the National Policy Statement for Renewable Energy (NPS EN3) provide offshore wind-specific biodiversity policy.

7.1.3. The assessment for Offshore Ornithology specifically as set out in NPS EN1 and the NPS EN3 requires from the Applicant:

- to discuss with the relevant statutory advisor on the scope, effort and methods required for ornithological surveys, reference to relevant data from operational offshore wind farms (OWF), including collision risk modelling for certain species of birds and where necessary using survey data collected from the site (NPS EN3 Paragraphs 2.6.64 to 2.6.67 and 2.6.102 to 2.6.104);
- to take advantage of opportunities to conserve and enhance biodiversity and geological conservation interests (NPS EN1 Paragraph 5.3.4)
- to meet requirements in respect of Marine Licence (NPS EN3 Paragraphs 2.6.102); and
- to integrate measures such as minimise construction-related disturbance, minimising aviation and navigation lighting, restoration, enhancement of habitats or creation of new habitats after construction, design turbine layout to minimise collision risk, ensure construction vessels are compatible with navigational safety, avoid rafting seabirds during sensitive periods, ecological monitoring during the construction and operational phases and overall careful design and construction techniques (NPS EN1 Paragraphs 5.3.18 to 5.3.20 and NPS EN3 Paragraphs 2.6.70 to 2.6.71, 2.6.107 to 2.6.110).

7.1.4. In reaching a decision the Secretary of State for Energy Security and Net Zero (SoS) should take into account:

- attaching weight to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity (NPS EN1 Paragraphs 5.3.5 to 5.3.17);
- the Government's biodiversity strategy in the context of the challenge of climate change, the need to avoid significant harm and protect the most important biodiversity and geological conservation interests, seek appropriate compensation measures where significant harm cannot be avoided and where relevant consider if the benefits of nationally significant low carbon energy infrastructure for biodiversity and geological conservation interests may outweigh harm to these interests (NPS EN1 Paragraphs 5.3.5 to 5.3.8);

- the effects of a proposal on marine ecology and biodiversity, bearing in mind that Natura 2000² site does not necessarily restrict the construction or operation of offshore wind farms in or near that area (NPS EN3 2.6.68 to 2.6.69);
- the assessment of collision risk for birds has been conducted to a satisfactory standard having had regard to the advice from the relevant statutory advisor (NPS EN3 Paragraph 2.6.104); and
- the mitigation measures that have been agreed with Natural England (NE) and the Marine Management Organisation (MMO), and if further Requirements (R) should be attached to secure appropriate mitigation (NPS EN1 Paragraphs 5.3.18 to 5.3.20).

Other Legislation and Policies

United Kingdom (UK) Marine Policy Statement, 2011

- 7.1.5. The Marine Policy Statement 2011 and the East Inshore and East Offshore Marine Plans 2014 are of relevance.

National Planning Policy Framework 2021 (NPPF)

- 7.1.6. Section 15 of the NPPF outlines relevant policy relating to harm to biodiversity, the mitigation hierarchy leading to compensation and to the considerations of effects on sites designated for ecological value such as Sites of Special Scientific Interest (SSSI). Development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

7.2. THE APPLICATION

Environmental Statement (ES)

- 7.2.1. The Applicant's assessment of effects and impacts on offshore ornithology and biodiversity is principally set out in the following documents:

- ES Chapter 11 Offshore Ornithology [APP-097].
- ES Chapter 11 Figures [APP-123].
- Offshore Ornithology Technical Report [APP-195].
- Information to Inform the Offshore Ornithology Cumulative Effects Assessment [APP-196].
- Outline Project Environmental Management Plan (OPEMP) [APP-297].
- Offshore In-principle Monitoring Plan (Offshore IPMP) [APP-289].

- 7.2.2. In addition, several documents were also submitted with a primary focus on HRA but with some relevance to wider offshore ornithological matters. This information, though largely relied upon in Chapter 26 of this Recommendation Report, can be found within the Report to Inform Appropriate Assessment (RIAA) and its annexes including compensation documents [APP-059 to APP-076], and will be referred to where necessary in the text of this Chapter.

Scope and Methodology

- 7.2.3. Pre-application consultation in respect of offshore ornithology included a series of Expert Topic Group meetings which were constituted of the Applicant, the MMO, NE and the Royal Society for the Protection of Birds (RSPB) and are documented to have taken place throughout 2019 to 2022 as part of the Evidence Plan Process

² European Site following the UK's withdrawal from the EU

[APP-097, Table 11-1]. Through this early engagement, it was agreed the Applicant should, amongst other matters:

- adopt a deterministic collision risk model approach to its assessment as opposed to a stochastic one, due to NE's concerns about technical issues undermining the confidence that could be placed in the stochastic outputs;
- use key input parameters such as monthly bird density, flight height, avoidance rates and nocturnal activity factors, such as those from the Band (2012) spreadsheet;
- apply the avoidance rates stated in the official guidance by UK Appropriate Nature Conservation Bodies (ANCBs) (2014);
- adopt appropriate and species-specific displacement rates;
- provide matrices for Upper Confidence Intervals (CI) and Lower Confidence Limits;
- In the population viability analysis (PVA), allow a period of five years for the burn-in before the start of the impact.
- use as consented designs for other OWF when making assessments as opposed to 'as built' parameters since further development at other offshore wind farms is not legally prevented.

7.2.4. The Applicant recorded adherence to the advice of NE and the ANCBs in preparation of the ES [APP-097, Table 11-1].

7.2.5. The study areas for all relevant sections of the ES were agreed between the Applicant and the ANCBs prior to the submission version of the application. The study area for offshore ornithology has been defined on the basis of the aerial survey study area, which covers the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and the Dudgeon Offshore Wind Farm Extension Project (DEP) wind farm sites, as well as a 4-kilometre (km) buffer around them. Interlink cable corridors are encompassed within the aerial survey study area. The offshore export cable corridor is included within the study area however is only partially encompassed by the aerial survey study area. For some offshore ornithology receptors (i.e., red-throated diver), impacts could occur at greater distances from SEP and DEP than 4km. For this species, habitats within 6km of the aerial survey study area (i.e., within 10km of the SEP and DEP wind farm sites) are considered.

7.2.6. The ES identified a number of potential ecological impacts. The impact pathways were considered either in terms of direct loss or damage to habitats or adverse effects on particular species bearing in mind the maximum design scenario, as set out in the project description of the ES [APP-090, Table 4.5].

7.2.7. Throughout the Examination the Applicant has also responded to comments made by Interested Parties (IPs) and statutory bodies, and to the Examining Authority's (ExA) written questions and requests for further information. This has resulted in different inputs and variables being applied to the original dataset submitted with the application at the request of NE though, in the large majority of cases, the results and conclusions drawn from the ES did not change.

Applicant's Assessment of Effects and Proposed Mitigation

7.2.8. The ES [APP-097, Section 11.7] details the potential impacts that have been assessed for the project alone and cumulatively with other plans and projects. The construction, operational and decommissioning activities considered in the assessment included construction of the wind turbine generators, other structures, foundations, cable laying, vessel movements, operational rotation of the turbine blades, and the use of safety lighting on structures. Possible impacts on birds that were considered included direct disturbance, displacement, barrier effects, and

physical impacts such as collision, as well as indirect effects such as impacts on important fish prey species. In relevant cases, the combined effects of two or more of these factors was considered for a bird population, for the Proposed Development alone, and cumulatively with other relevant projects.

- 7.2.9. The ES [APP-097, Table 11-2] describes the realistic worst-case scenarios for potential impacts of the Proposed Development upon offshore ornithological receptors. At operational stage, the Applicant submitted the worst-case was the full build-out of all 53 turbines, with the 30 turbines to be built as part of the DEP being developed in DEP North (DEP-N) alone, as opposed to turbines being spread over both DEP-N and DEP South (DEP-S) [APP-097, Table 11-2], [APP-090, Table 4-3].
- 7.2.10. The ES sets out the commitments that the Applicant built into the design of the Proposed Development to reduce impacts [APP-097, Table 11-4]. This embedded mitigation constituted a draught height of 30 metres (m) between the level of the highest astronomical tide and the bottom of a turbine blade. This height was committed to in R6 of the dDCO and would serve as the main mitigation for all species. The Applicant also offered, as mitigation, to impose a cap on the original Dudgeon Offshore Windfarm (DOW) to prevent its full capacity ever potentially from being developed in the future. Unlike other offshore wind farm proposals, this surrendering of the development option was proposed to be secured under Article 45 of the dDCO [APP-024].
- 7.2.11. The Applicant concluded that, post embedded mitigation, the project alone would result in minor adverse effects on all offshore ornithology species. When considered cumulatively with other offshore wind farms, the Applicant again concluded minor adverse effects for all species except sandwich tern and great black-backed gull, which were predicted to have moderate adverse effects (significance) residually. No specific further mitigation to reduce the residual effects of the Proposed Development was to be applied at an EIA-scale.
- 7.2.12. Mitigation measures in the form of management tools for construction and operation were set out in the OPEMP [APP-297]. In terms of post-consent monitoring of effects, the requirement for, and final design and scope of, monitoring would be agreed with the regulator and relevant stakeholders and included within the Ornithological Monitoring Plan and the Offshore IPMP, as secured through Schedules 10 and 11, Part 2, Condition 13 of the dDCO.
- 7.2.13. The ES [APP-097, Section 11.8] acknowledges the potential for transboundary cumulative impacts, for example due to potential collisions and displacement at windfarms outside UK territorial waters. The ES states that information on the sizes of these populations is not available and the methods used to assess potential OWF impacts varies by country, and more often than not, the outputs of impact assessments are not directly comparable. This makes quantitative transboundary impact assessment impossible.

7.3. LOCAL IMPACT REPORTS

East Suffolk Council (ESC)

- 7.3.1. ESC's LIR [REP1-076] raised concern specifically about kittiwakes and the need to develop a strategic approach to delivering artificial nesting sites, given that there was growing pressure and conflict on structures within Lowestoft to accommodate nesting opportunities for the species. ESC confirmed it would not support further onshore artificial nesting sites in Lowestoft and requested compensatory measures be drawn up for other areas. This is discussed further in Chapter 26 of the Recommendation Report.

7.3.2. There are no substantive comments relating to Offshore Ornithology in any of the other submitted LIR.

7.4. THE EXAMINATION

7.4.1. During the course of the Examination, the Applicant submitted several technical notes and addenda, updating the application documents referenced above as well as to inform discussions and to respond to points of dispute. The most relevant to this topic section are:

- An updated Offshore IPMP [REP7-029];
- Collision Risk Modelling Updates (EIA Context) Technical Note [REP1-056] [REP3-089];
- Apportioning and Habitats Regulation Assessment Updates Technical Note [REP1-057] [REP2-036] [REP5-043] [REP7-051] [REP8-038];
- Auk Construction Phase Displacement Assessment (EIA Context) Technical Note [REP2-049];
- Gannet and Auk Cumulative Displacement Updates Technical Note [REP5-063]; and
- Report to Inform the Appropriate Assessment (onshore) Technical Note [REP2-050].

7.4.2. The latest versions of these technical notes are listed within Schedule 18 of the draft Development Consent Order (dDCO), alongside the ES, as being certified documents enacted under Article 38 of the dDCO [REP8-005].

7.4.3. The matters discussed below relate to EIA process and the EIA-based conclusions drawn by the Applicant.

7.4.4. In order to take a proportionate approach, the ExA sees no significant benefit in providing a detailed analysis of all those matters that were not agreed at the start of the Examination, but which have now been agreed. The majority of these can be tracked in NE's Risks and Issues Log submissions, the latest of which can be found at [REP8-107]. Furthermore, the ExA is satisfied that these matters have now been resolved to an acceptable standard either through the provision of the additional information or, in a few instances, through the provision of requirements in the dDCO [REP8-005].

7.4.5. Issues emerging during Examination that the ExA has examined, considered and concluded on are:

- 1) Assessment, Methodology and Assumptions;
- 2) Collision Risk;
- 3) Displacement Risk; and
- 4) Mitigation and Monitoring.

Assessment, Methodology and Assumptions

7.4.6. NE raised a targeted number of issues in relation to the assessment of offshore ornithology [RR-063] [REP1-138], echoed by the RSPB [REP1-161]. The Applicant worked throughout the Examination to address the concerns, providing updated data and modelling calculations at the request of NE at every Deadline (D).

7.4.7. Whilst highlighting that certain parameters and data were potentially over-precautionary, the proactive approach of the Applicant resulted in a number of issues being resolved during the Examination and agreement being recorded on such in the Statement of Common Ground (SoCG) [REP2-045] [REP8-032]. In particular, at D4,

NE confirmed that the majority of information provided to the Examination demonstrating the approach of the Applicant to inform the ES was acceptable and appropriate [REP4-049, Q2.12.1.1] with regards to matters including:

- PVA.
- Biologically Defined Minimum Population Scale (BDMPS).
- Avoidance Rates.
- Mortality Rates.
- Counterfactuals.
- The use (or not) of ranges.
- Determination of the 95% CI.

- 7.4.8. Despite there being some difference of opinion between the Applicant and NE on the conclusions reached following assessment, it was common ground the ES methodology and data presentation was agreeable [REP4-049, Q2.12.1.1] [REP8-032].
- 7.4.9. The RSPB did not agree that avoidance rates should be applied to the gannet species, particularly the use of a 98.9% avoidance rate for the breeding population due to a lack of evidence [RR-083], [REP1-161, Paragraphs 4.17 to 4.25]. A lower rate of 98% was recommended in order to ensure the collision risk modelling was not misrepresentative.
- 7.4.10. In addition, the RSPB did not agree with the PVA methodology used by the Applicant with regards to Counterfactual of Population Size (CPS) and Counterfactual of Growth Rate (CGR), particularly that they were disassociated [REP1-161, Paragraphs 4.6 to 4.8].
- 7.4.11. The Applicant responded [REP2-017] to state that the CGR and CPS metrics are not disassociated in the submissions as is evident in the primary tables and associated text in the RIAA [APP-059], thus the interpretation of the population-level impacts according to both the CGR and CPS metrics is readily achieved. The Applicant also confirmed that the approach taken to PVA and to the use of avoidance rates was justified because it was consistent and aligned with NE's recommendations [REP1-034, page 58].
- 7.4.12. Notwithstanding the above, NE requested further information to be presented regarding guillemot, razorbill, common scoter and red-throated diver considering displacement effects [REP3-142] [REP3-143]. This was forthcoming from the Applicant at D5 [REP5-043]. The outcomes of this are discussed in following sections below, though it is relevant that the Applicant maintained that applying different data and approaches did not change the fundamental core of the ES assessment or findings [REP8-062]. More detail on this matter is set out in Chapter 26 of this Recommendation Report.

Highly Pathogenic Avian Influenza (HPAI)

- 7.4.13. NE's concerns regarding the HPAI were expressed right at the outset of the Examination [RR-063]. The RSPB also advocated a high level of precaution being required in the Examination regarding impacts of the Proposed Development as it is unclear what the population-scale impacts of the HPAI outbreak would be [RR-083].
- 7.4.14. The ExA invited the respective parties to engage into how this information would be presented [EV-076] [EV-080]. This was discussed outside of the Examination, with the resulting assessment provided [REP4-042], with the agreed position summarised below.

- 7.4.15. The Applicant's view on the HPAI outbreak was that the disease, in common with any natural or anthropogenic factor that may influence seabird populations, has the potential to reduce seabird populations over the lifespan of the Proposed Development [REP4-042]. The Applicant recognised that there is considerable uncertainty as to how HPAI in 2022 (and subsequent years) will impact long-term populations for affected species and colonies stating it may be several years before the full effects of HPAI on seabird populations are known. The Applicant surmised that it is unlikely that impacts from SEP and DEP (which in isolation would be relatively small) would significantly interact with the effects of HPAI, and, based on the best available evidence relating to HPAI mortality, it is considered that there would be no change to the conclusions of the EIA and HRA.
- 7.4.16. NE acknowledged that the long-term impacts of the ongoing avian influenza epidemic on the seabird populations are presently unknown and, as such, there is considerable uncertainty regarding the likely population sizes and growth rates in the future [REP5-091]. NE went on to suggest that it is challenging to provide advice on projecting population trends 35 years into the future in the absence of an understanding of the long-term impacts of HPAI, concluding there are reduced levels of confidence in NE's own integrity judgements as a result.
- 7.4.17. The ExA questioned the Applicant's assumption that any population decline would be reflected in a proportionate decline in impact [EV-076] [EV-080, minute 36:51 to 38:43]. The Applicant suggested there was strong evidence and justification to reach such a conclusion and NE also acknowledged that, for some species, a reduction in a population as a result of HPAI would be expected to result in a proportionate reduction in any collision and displacement effects in SEP and DEP [REP5-091, Page 13].
- 7.4.18. The ExA queried whether the Applicant's proposed compensatory measures for kittiwakes (considered in Chapter 26 of this Recommendation Report) would be susceptible to HPAI. Neither NE [REP5-094, Q3.14.1.7] nor the Applicant [REP5-049] considered that the risk of infection within the kittiwake species would increase as a result of the compensatory measure.

Proposed release of headroom and Cumulative Effects Assessment

- 7.4.19. The ES [APP-097, Section 11.7] presents the Applicant's approach to identifying and assessing potential cumulative effects on offshore ornithology. The Applicant's screening concluded [APP-097, Table 11-131] that two potential effects, operational disturbance and displacement as well as operational collision risk, could give rise to potential cumulative impacts. A summary of the projects included in the Cumulative Effects Assessment for ornithology is provided [APP-097, Table 11-132]. In addition, the ES [APP-097, Table 11-168] sets out the Applicant's assessment of the potential residual cumulative impacts for offshore ornithology as a result of the Proposed Development.
- 7.4.20. The Proposed Development constitutes extensions to existing parent windfarms. In the case of the DOW, the Applicant highlighted that the permission, constructed under section (s) 36 of the Electricity Act 1989 reference 12.04.09.04/113C, was not fully built-out to its maximum parameters. The section 36 consent allowed for up to 168 turbines, but only 67 had been built, leaving a circa 160 Mega Watt capacity undeveloped in the DOW [REP1-036, Q1.5.1.1]. The Applicant had referenced environmental headroom that arises because the original permission for the existing DOW array was not built out to its fullest extent [APP-090, Paragraph 31]. This consent is suggested to be surrendered by virtue of Article 45 of the dDCO [APP-025, Paragraph 148] thus freeing up some environmental capacity. The Applicant submits that no UK offshore wind farm has sought to use the additional capacity/ headroom

within its consent after an asset has been constructed and commissioned [REP1-036, Q1.5.1.1, Q1.14.1.8] but surrendering the s36 consent legally via the DCO may be beneficial to the industry.

- 7.4.21. The ExA queried whether the Applicant's CEA in the ES incorporated adjustments to reflect the environmental headroom. The Applicant confirmed that it had not relied on any scenario that uses as-built parameters (i.e. headroom) in the assessment conclusions either in ES Chapter 11 [APP-097] or the RIAA [APP-059] ([REP1-036, Q1.5.1.1, Q1.14.1.8]). The Applicant also confirmed that, in the cases of other as-built windfarms including the DOW, the underpinning electrical infrastructure such as the export cables would not be capable of accommodating any increases in turbine output [REP1-031]. No further debate on the headroom was raised by IPs during the course of the Examination.
- 7.4.22. NE noted that the in-combination assessments did not include a number of other plans and projects, listing these in its position statement [REP5-091, Section 5], as discussed in Chapter 26 of this Recommendation Report. NE recognised however that the only project for which sufficient data was available to carry out a quantitative assessment of impacts at the time of the SEP and DEP application submission was Rampion 2. NE highlighted that the lack of data regarding Tier 4 and Tier 5 projects did inevitably introduce additional uncertainty into the in-combination assessments and required a precautionary approach to the appraisal of those impacts that are quantifiable. NE advised the Applicant has considered all appropriate set of plans and projects but reserved the right to update its position post-Examination if new information becomes available.
- 7.4.23. NE asked that calculating seasonal apportionment of displacement effects for auk species of the Flamborough and Filey Coast (FFC) Special Protection Area (SPA) be done in three different ways, namely the NE Standard, the NE Bespoke and the Applicant's approach [REP3-146, point B13]. This, NE stated, was to accord with the figures and data being presented for the Orsted Hornsea Project Four OWF application (Hornsea 4), and that, NE would refer to only the NE standard and bespoke estimates presented [REP3-143, Paragraph 5].
- 7.4.24. Updated in-combination values for operational phase displacement have been calculated, including the most recent values from Hornsea 4. In accordance with NE's request, the Applicant presented three different values for the Hornsea 4 contribution to the in-combination effects [REP5-043].
- 7.4.25. However, the Applicant highlighted that the applicant for Hornsea 4 raised significant concerns about the rationale for adopting such an approach, stating there was no reasoning to justify such deviation from their standard defined seasons for assessment [REP5-043, Paragraphs 38 and 67]. The Applicant confirmed that the same concerns were relevant for this Examination, with the preferred approach being standard for NE [REP7-065, Q4.14.1.11], noting that NE had not specifically asked for the Hornsea 4 bespoke approach to be directly applied to the SEP and DEP project alone assessment.
- 7.4.26. NE clarified that, in fact, the bespoke approach was not actually being advocated for SEP and DEP, with the approach to assessing impacts on FFC SPA guillemot and razorbill being entirely standard and fully in line with the ANCB guidance [REP7-112, Q4.14.1.11].
- 7.4.27. Prior to the close of the Examination, Hornsea 4 was granted development consent by the SoS on 12 July 2023. The ExA issued a Rule 17 letter inviting views from IPs on the implications of that decision [PD-022] and the SoS findings. In the time

available, the Applicant summarised that the decision at Hornsea 4 verified the approach taken to assessing the Proposed Development and that the Applicant's position regarding offshore ornithology would not be changing as a result of the decision [REP8-052].

- 7.4.28. The Applicant and NE had opposing positions at the start of the Examination regarding cumulative effects. NE stated at the beginning of the Examination that it had identified significant adverse impacts at an EIA scale to gannet, kittiwake, great black-backed gull, guillemot, razorbill and red-throated diver irrespective of whether SEP and DEP are included in the cumulative totals [REP5-093, point B2] with SEP and DEP just making an additional contribution to the impacts. Likewise, the RSPB took the position that whilst the individual contributions from the two extension projects alone may be less than some of the other OWF located nearby, this did not make their cumulative and in combination impacts any less significant [RR-083]. These positions did not change across the Examination and remain a point of dispute between these bodies and the Applicant.
- 7.4.29. The Applicant maintained its position at the close of the Examination that, post embedded mitigation, the project alone would result in minor adverse effects on all offshore ornithology species. When considered cumulatively with other offshore wind farms, the Applicant again maintained the position that minor adverse effects for all species except sandwich tern and great black-backed gull, which were predicted to have moderate adverse effects (significance) residually.

ExA's Reasoning

- 7.4.30. The ExA welcomes the proactive approach by the Applicant in supplying the additional data and information requested by all IPs throughout the Examination, including the adherence to presentation of data in accordance with ANCB expectations. The level of detail provided is sufficient that, conclusions could be reasonably drawn and interpreted for the Examination. In some cases, the range or scenario that NE referred to differed from the approach taken by the Applicant, but this did not undermine the underlying data [REP4-049, Q2.12.1.1]. This meant the Examination could proceed smoothly and without technical complication.
- 7.4.31. The ExA also acknowledges the Applicant's and NE's position that, even where there is a numerically different outcome, each impact carries the same level of significance that the Applicant originally identified when concluding the EIA. Therefore, the ExA is content that the ES, read as a whole and including the relevant amendments, clarifications and updates submitted during the Examination, provides sufficient information to allow an assessment to be made of the relevant and important matters relating to offshore ornithology.
- 7.4.32. Regarding the matter raised by the RSPB in relation to the gannet avoidance rate, the ExA saw no compelling evidence to recommend variance from the 98.9% avoidance rate advocated by NE. The ExA considers the Applicant's approach to be justified insofar as it follows established guidance and recommendation from the ANCBs, as set out further in Chapter 26 of this Recommendation Report.
- 7.4.33. The ExA notes that outbreak of HPAI, amongst other factors, has the potential to influence seabird populations is not unusual, but the Applicant and parties have no way of knowing the eventual magnitude or longevity of this outbreak, nor its likely status during the planning, construction and operational stages of the Proposed Development, if consented. For the purposes of the EIA, the ExA agrees with the Applicant's submission that a reduced number of birds in the area as a consequence of the outbreak would lead to a reduction in the numbers of birds affected by the

Proposed Development, though it considers the suggestion that this would be a proportionate reduction to be an oversimplification.

- 7.4.34. Thus, in terms of actual bird mortalities, the ExA accepts in principle that the assessments considered during the Examination and discussed above present a worse case than would corresponding assessments based on significantly reduced populations as a consequence of a major HPAI outbreak. However, it is also aware that, if there was to be a sustained and catastrophic drop in bird numbers as a result of the outbreak, then the Proposed Development could place a disproportionate additional strain on the viability of any affected population. The ExA believes this to be an additional reason for taking a precautionary position when considering its overall recommendation, given that the assessment of HPAI presented by the Applicant represents an adequate reflection on the reality of the situation.
- 7.4.35. The ExA is content that the Applicant has undertaken a thorough assessment of potential cumulative effects and that appropriate information has been included from all known and identified plans and projects. Whilst the ExA recognises disputes on some aspects of the approach between the Applicant and NE, the ExA considers that the list of projects taken into account in the CEA fulfils the expectations of the Planning Inspectorate's Advice Note 17 (AN17).
- 7.4.36. The principle of releasing headroom, by legally capping the further build out of an existing project seems sound. Given that the released capacity is not included in the ES assessments for the Proposed Development, the ExA has no objection to the inclusion of this novel Article 45 in the rDCO. And in that regard, the ExA finds the drafting of Article 45 to be robust. However, there is not enough evidence before the ExA to establish the benefit of doing so; and at the present time, it would appear the benefit is only academic, in terms of the EIA assessment, in particular CIA, of future OWFs. In summary, while the ExA accepts the inclusion of provisions of the novel Article 45, it agrees with the Applicant's precautionary approach to not include the released headroom in the CEA for the Proposed Development.
- 7.4.37. The ExA notes the decision for Hornsea 4 came close to the end of the Examination and all parties had to react swiftly, though not completely, to the Rule 17 letter issued querying the implications of that decision [PD-022]. Nonetheless, NE and the Applicant state their respective positions remain unchanged. The ExA accepts the joint conclusion of NE and the Applicant, that the NE bespoke approach advocated on Hornsea 4 should not be applied to the Proposed Development, project alone.
- 7.4.38. On the whole, following the numerous updates to the datasets, there were only limited changes in the ES conclusions, with some of the adverse impacts reducing as a result of the updated datasets. On this basis the ExA can conclude that the assumptions and methodology utilised in the ES are robust and the ES on the whole is sufficiently precautionary.

Collision Risk

- 7.4.39. There is a significant degree of overlap between the EIA and HRA aspects of the effects on offshore ornithology from collision risk. The majority of the considerations are reported in Chapter 26 of this Recommendation Report. However, as relevant, other matters needing reporting are considered below.
- 7.4.40. The Applicant predicted collision risk effects on gannet, sandwich tern, kittiwake, black-headed gull, herring gull, common gull, common tern, great black-backed gull, little gull and lesser black-backed gull [APP-097, Table 11-167].

7.4.41. NE welcomed the commitment to include a 30m air draught between the lowest point of a turbine blade and the highest astronomical tide and considered this would have a positive effect in reducing collision risk for all offshore seabirds [RR-063]. This draft height would apply to all turbines regardless of size and power output, as confirmed in Issue Specific Hearing (ISH) 5 [EV-080, 16:55]. The RSPB did not specifically comment on the air gap during Examination, though the final closing statement does not raise any issues in this regard [REP8-116].

7.4.42. Updates throughout the Examination to the modelling and inputs for the Proposed Development as a whole, in accordance with NE's requests, led the Applicant to draw the following amended predictions with regards to collision risk:

Table 5: Summary of collision risk impacts for offshore ornithology.

Species	Cumulative mortalities including the Proposed Development**	Project Alone contribution to cumulative mortalities**	Source
Gannet*	131.5	2.94	[REP5-043, paragraph 93]
Kittiwake	292.7	6.36	[REP5-043, paragraph 93]
Little Gull	70.2	2.9	[REP5-043, paragraph 126]
Sandwich Tern	169.6	6.86	[REP5-043, Tables 13-1 and 13-5]
Lesser black-backed gull	640	2.21	[REP3-089, Table 4-12 and Appendix 2]
Great black-backed gull	1357.2	6	[REP3-089, Table 4-11 and Appendix 2]
Black-headed gull	-	1.69	[APP-097, Table 11-103]
Common gull	-	3.95	[APP-097, Table 11-103]

*Collision risk and displacement combined

**mortalities per annum, the source for both columns is the document referenced in the final column of the table

7.4.43. NE reported agreement with the Applicant on the values presented in the latest Collision Risk Modelling Update [REP5-093, point B1]. Taking the evidence into account:

- 1) Gannet – NE confirmed that for the project alone, no impacts greater of minor adverse significance would occur [REP8-043]. However, in the face of uncertainty around the true level of impact of HPAI and the future population trajectory stated that it was unable to rule out a significant adverse impact from a cumulative perspective [REP8-102].
- 2) Kittiwake - NE confirmed that the collision impacts of the project alone results in an increase to baseline mortality of substantially less than 1% and no further assessment is required [REP5-091, Table 4]. Almost all sites designated for breeding kittiwake in Great Britain have unfavourable conservation status. As such while the predicated impact has decreased, it is still at a level to conclude a significant adverse impact cannot be ruled out [REP8-102].
- 3) Little gull – NE confirmed that no unresolved concerns regarding this species [AS-041] [REP3-143].
- 4) Sandwich tern - NE confirmed that the collision impacts for the project alone result in increases to baseline mortality of substantially less than 1% and no further assessment is required [REP5-091, Table 7]. The current assessment presents a cumulative collision impact of 98 birds, resulting in an increase in baseline mortality at BDMPS scale of 0.26%. This is an underestimate of the true scale, as the cumulative totals only includes those from the wider Greater Wash area. However, at this stage, accepting that there is a detailed HRA process underway for Sandwich tern breeding within the Greater Wash area including a full compensation package, it is acceptable to conclude no significant adverse impact. NE further noted that applicant concludes moderate adverse impact at a more localised scale (that of the Greater Wash) and agree with this conclusion at this scale, however, consider this is better dealt with in the HRA process [REP8-102].
- 5) Lesser black-backed gull – NE confirmed that it had never historically taken the view of significant adverse effects occurring to this species from an EIA perspective and did not have any concerns in this regard for the Proposed Development [AS-041].
- 6) Great black-backed gull – NE confirmed that the Proposed Development makes a relatively small contribution to the cumulative impact on this species, but NE agreed that the air gap would help reduce collision risk [REP3-147, Q2.12.1.5]. However, NE maintained that a significant adverse effect on the species was already occurring as a result of other consented OWF developments, and the Proposed Development would simply be adding to the cumulative losses [REP3-146, point B2].

7.4.44. Both NE and the Applicant highlighted a degree of uncertainty in the modelling outputs, with the Applicant stating, particularly with regards to the cumulative assessments, that there is a degree of over-precaution in the results [APP-097], [REP5-043]. Nonetheless, the Applicant and NE were aligned on the majority of these assessments early during the Examination, stating the Applicant has presented appropriate alternatives to their preferred impact assessment outputs to enable NE to draw conclusions regarding the impacts to seabird species from the Proposed Development [REP8-043].

7.4.45. The ExA explored whether more could be done, in terms of embedded mitigation, that would reduce the collision effects, particularly where it was considered that they would lead to moderate adverse effects. However, neither the Applicant nor NE presented any other viable measures to mitigate the effects of collision on the identified species [REP3-147, Q2.12.1.5]. Furthermore, the Applicant also confirmed that trying to mitigate for collision risk by enhancing habitats along the coast, particularly at landfall, would either not be possible or would, in itself, result in adverse consequences [REP5-049].

- 7.4.46. The ExA also asked the Applicant if the layout of the arrays could, in itself, be designed so as to have a mitigating effect against collision risk, but the Applicant stated this was statistically unlikely to cause any changes to the predicted effects [EV-080 minute 19:35 – 20:43]. NE confirmed that the layout of the offshore turbines would be determined post-consent, and, at that time, decisions would be made in consultation with the MMO as to minimising collision risk through detailed design work [REP7-112, Q4.5.1.1].
- 7.4.47. At the beginning of the Examination, the RSPB [RR-083] raised objections to the Proposed Development and maintained these all the way through to the close of the Examination [REP8-116], stating there would be significant adverse impacts cumulatively for all the aforementioned species as per the table above. These views are considered further in Chapter 26 of this Recommendation Report. Nonetheless, the Applicant rebutted most of the RSPB's comments by iterating its close alignment to the position of NE as the ANCB [REP1-034].

ExA's Reasoning

- 7.4.48. The ExA considers that collision risk has been suitably presented by the Applicant and the evidence tested rigorously in the Examination. The ExA acknowledges the high degree of common ground between the Applicant and NE in this regard [REP8-043] including that, in the pre-application process, the parties formally agreed how evidence in the ES was to be presented including the use of a deterministic model, as reported above.
- 7.4.49. The ExA notes that there is a broad degree of alignment between the Applicant and NE following the updates and adjustments to the collision risk modelling data sets, as confirmed by NE [REP4-049]. The ExA also acknowledges NE's position insofar as the number of OWF projects is, cumulatively, having a progressively adverse effect upon offshore ornithology species.
- 7.4.50. The ExA has tracked the assessments from the generation of the additional mortality predictions to the estimated increases in percentage mortality (with and without the Proposed Development) and reached the following conclusions:
- 7.4.51. **Little gull:** on the basis of the Applicant's conclusion in the ES, and relying on the agreement with the ANCB, NE, on that conclusion, the ExA accepts or has no concerns that no significant adverse effect is likely on little gull because of the Proposed Development alone or cumulatively with consented OWFs.
- 7.4.52. **Great black-backed gull:** the ExA notes that the Applicant followed NE's advice for this assessment and so the collision outputs are closely aligned to NE's assessment. The Applicant and NE concluded that post-mitigation there would be a residual significant adverse effect cumulatively. Given the scale of the predicted increase in mortality and reduction in population growth rate, the ExA cannot rule out the possibility of a significant adverse effect on the great black backed gull population.
- 7.4.53. **Lesser black-backed gull:** on the basis of the Applicant's conclusion in the ES, and relying on the agreement with the ANCB, NE, on that conclusion, the ExA accepts or has no concerns that no significant adverse effect is likely on lesser black-backed gull because of the Proposed Development alone or cumulatively with consented OWFs.
- 7.4.54. **Gannet:** on the basis of the Applicant's conclusion in the ES, and relying on the agreement with the ANCB, NE, on that conclusion, the ExA accepts or has no concerns that no significant adverse effect is likely on the gannet species because of the Proposed Development alone. The ExA relies on the ANCB advice [REP8-102] that, although an Adverse Effect on Integrity (AEol) could be ruled out for the species

(see Chapter 26 of this Recommendation Report), there would be significant adverse impacts on gannets at an EIA-scale taking the Proposed Development cumulatively with consented OWFs.

- 7.4.55. **Kittiwake:** the outputs of the ES and the technical notes received throughout the Examination indicate a likelihood of a significant cumulative adverse effect on the kittiwake population when considered with consented projects. The advice of NE is that this is correct. On this basis, the ExA accepts the conclusions of adverse effects on the kittiwake species and has no reason or evidence to depart from the position agreed between the parties. The Applicant's acknowledgement of an AEol in relation to the in-combination HRA for kittiwake is addressed in Chapter 26 of this Recommendation Report, including the Applicant's proposals for derogation compensation.
- 7.4.56. **Sandwich Tern:** the technical notes received throughout the Examination indicate a likelihood of a significant cumulative adverse effect on the sandwich tern population when considered with consented projects. The advice of NE is that this is correct. On this basis, the ExA accepts the conclusions of adverse effects on the sandwich tern species and has no reason to depart from the position agreed between the parties. The Applicant's acknowledgement of an AEol in relation to the in-combination HRA for kittiwake is addressed in Chapter 26 of this Recommendation Report, including the Applicant's proposals for derogation compensation.
- 7.4.57. The ExA welcomes the 30m air draught, secured under R6 of the rDCO, particularly since no IP has objected to this. However, the ExA observes that there are no other meaningful forms of mitigation available to prevent collision risk, or to offset the effects, on a number of species. It concerns the ExA that significant adverse effects remain for sandwich terns, great black-backed gull, gannet and kittiwake) which nothing is being proposed to mitigate (see related section on sandwich terns in Chapter 26 of this Recommendation Report).

Displacement Risk

- 7.4.58. 'Displacement' can be defined as a reduction in the density of birds in the footprint of the Proposed Development and buffer zone during construction, maintenance, operation or decommissioning, compared with the baseline situation. Displacement is equivalent to habitat loss and may be temporary or permanent, depending on whether or not habituation follows.
- 7.4.59. 'Barrier effects' may arise when obstacles, such as groups of wind turbines, cause birds to divert from the route to their intended destination. It principally affects birds in flight. As such, barrier effects are similar, though not the same as displacement effects.
- 7.4.60. The Applicant's consideration of displacement effects [APP-097] covered both the construction and operational presence of the wind turbines as well as the temporary construction and operational effects of vessels transiting through the area. These effects were considered upon offshore ornithology species at the FFC SPA, the Greater Wash (GW) SPA, the Wash and North Norfolk Coast SPA and the Outer Thames Estuary (OTE) SPA. The effects can be summarised as:
- construction vessels building SEP and DEP, including laying cables in the offshore export cable corridor;
 - operation and maintenance vessels during the lifetime of the development; and
 - the physical presence of the Proposed Development, primarily the effect of SEP upon the GW SPA.

- 7.4.61. NE noted that the approach to assessing displacement during construction uses data from Fleissbech et al (2019). NE advised it may make more sense to just extend the predicted operational impact by 1-2 years rather than going through the process of calculating a different approach, acknowledging that as the construction develops there are more and more turbines present in the array site, which may (whether operational or not) cause displacement [RR-063, Table 4, point 4]. The Applicant responded that assuming construction phase displacement would result in the same level of impact as operational phase displacement is a highly simplified method and chose to adopt a different proportionate approach [REP1-033, page 253].
- 7.4.62. The Applicant anticipated using the Port of Great Yarmouth as its operations and maintenance (O&M) base, as is currently the case for the parent windfarms, but said this would be a post-consent commercial decision [REP5-021, Paragraph 202]. In response to this, NE queried why DEP had not been considered for operational phase effects given that O&M vessels may transit through the GW SPA [REP5-093, point B14]. The Applicant responded to confirm that O&M vessels attending the Proposed Development would be directed to utilising existing shipping lanes already frequented by shipping traffic for access and egress as part of seasonal restrictions being adopted [REP7-052, paragraphs 122-126].
- 7.4.63. Much of the concern regarding displacement and barrier effects in the Examination focused on gannet, guillemot, razorbill and red-throated diver, for which the Applicant had predicted minor adverse effects only both for the project alone and cumulatively [APP-097, Tables 11-167 and 11-168]. NE had, however, already taken a position that significant adverse effects upon these species would occur irrespective of whether the Proposed Development was included in the cumulative totals [REP3-146, point B2]. Matters pertinent to the HRA implications are considered in Chapter 26 of this Recommendation Report.

Gannet

- 7.4.64. The Applicant presented a range of 60-80% for the displacement rate and a 1-10% mortality rate, also utilising an 98.9% macro-avoidance rate, as endorsed by NE though not agreed with the RSPB. The Applicant submitted that a 1% mortality rate was appropriate for calculations because gannet is known to possess high habitat flexibility and no evidence of displacement-induced mortality has been identified, which means there is limited justification for setting predicted mortality rates at a higher level [APP-097, paragraphs 196-200].
- 7.4.65. On the basis of these figures, the Applicant predicted an annual loss of 7-9 gannet due to displacement from the Proposed Development alone [APP-097, Table 11-134] and 305-406 gannet in-combination with other plans and projects [REP5-063, Table 2].
- 7.4.66. The Applicant provided updated cumulative displacement effects matrices following comments made by NE, which confirmed that the original calculations provided were robust and accurately predicted [REP5-063, Table 2] with only a minor adjustment to the mortalities being between 305-407 gannets per annum.
- 7.4.67. NE confirmed [REP5-091] that an AEol on gannet arising from cumulative displacement (and collision) could be ruled out and maintained this up to the close of Examination. However, NE disagreed with the Applicant on the EIA-level assessment, concluding that a significant adverse impact could not be ruled out, particularly in view of uncertainty around the future population trajectory in light of HPAI [REP8-102, page 39].

Auk Species (Guillemot and Razorbill)

- 7.4.68. The Applicant's assessment in the ES presented a range of displacement rates (30-70%) and mortality rates (1-10%) for consideration, stating that the principal basis for determining impacts was with an evidence-based displacement rate of 50% and a mortality rate of 1%. This, the Applicant stated, followed reviews of auk behaviour with regards to existing operational windfarms and suggested appropriately precautionary rates of displacement and mortality [APP-097, Paragraph 235]. Going any higher, the Applicant predicted, would result in a level of mortality similar to every possible factor affecting wellbeing of the species. The Applicant said such a level of mortality resulting from disturbance and displacement caused by offshore windfarms would be improbable [APP-097, Paragraphs 239 and 240].
- 7.4.69. As the Examination progressed, the Applicant updated and presented the matrices in accordance with NE's requirements. The Applicant presented figures to suggest that, as a result of the Proposed Development, the displacement effects would cause [REP5-043]:

Table 6: Applicant's predicted displacement effect mortality on auks

Species	Cumulative mortalities including the Proposed Development	Project Alone contribution to cumulative mortalities*	Source
Guillemot	112 - 2,608	2 - 49	[REP5-043, Paragraph 93], [REP7-051 Paragraph 45]
Razorbill	21 - 500	1 - 21	[REP5-043, Paragraph 93], [REP7-051, Paragraph 71]

**Mortalities per annum*

- 7.4.70. The Applicant did however stress that the cumulative modelling was based on the higher rates of displacement and mortality, which the Applicant considered to be overly precautionary.
- 7.4.71. NE did not agree with the 50% and 1% rates adopted by the Applicant, believing the evidence does not substantiate these percentages [REP5-093, point B25] and that the range-based approach allows for uncertainties in the modelling. NE did, however, concur with the Applicant that while the predicted displacement impacts vary due to the range in displacement and mortality rates assessed, in all cases the range of predicted impacts for the project alone do not exceed an increase in baseline mortality of 1% [REP5-091].
- 7.4.72. NE requested [REP4-049] that the cumulative displacement tables for auks should be updated using figures from Hornsea 4. The cumulative impact matrices are shown by the Applicant in Tables 3 to 7 of the cumulative displacement technical note [REP5-063].
- 7.4.73. Prior to the close of the Examination, the SoS issued the Hornsea 4 decision on 12 July 2023. In light of this, and the ExA's Rule 17 letter, the Applicant set out that the SoS had applied 70% displacement and 2% mortality rates at Hornsea 4, consistent with rates applied on other recent offshore wind farms. The Applicant highlighted that the SoS conclusion of no significant adverse cumulative effects on razorbill aligned with its own position. However, the Applicant declined to comment on the SoS findings regarding guillemot, stating its position remained unchanged

whilst the full implications of the Hornsea 4 position were studied [REP8-052]. NE did not wish to change its position, simply noting that, for all Nationally Significant Infrastructure Projects (NSIPs), statutory advice on adverse effects and the appropriateness of compensatory measures is based on NE's scientific review of the best available evidence [REP8-108].

- 7.4.74. At the beginning of the Examination, the RSPB [RR-083] raised objections to the Proposed Development and maintained these all the way through to the close of the Examination [REP8-116], stating there would be significant adverse impacts cumulatively for all the aforementioned species. These views are considered further in Chapter 26 of this Recommendation Report.

Red-throated Diver (RTD)

- 7.4.75. The Proposed Development interfaces with the GW SPA and the OTE SPA, of which RTD is a feature.
- 7.4.76. Both NE and the RSPB raised caution with regards to the assessment of displacement on red-throated divers, with the RSPB stating the conservation objectives for the GW SPA had not been taken into account by the Applicant [RR-083]. The Applicant responded to state the assessments for RTD consider the potential area within which birds could be subject to displacement and then, based on various displacement and mortality rates, calculates the number that could be subject to mortality, allowing consideration of the conservation objectives [REP1-034].
- 7.4.77. The ES disputed NE's maximum mortality rate of 10% being applied to construction stage cable laying vessels, stating such a rate would equate to more than half the natural annual adult mortality rate (16%) as a result of what would effectively be a single occasion of disturbance. It was submitted that using 1% is an appropriately precautionary mortality rate estimate for displacement for red-throated diver, and that in reality the additional mortality rate may be closer to zero [APP-097, Paragraphs 148 and 149].
- 7.4.78. NE re-emphasised its increased concern over the extent to which displacement impacts were affecting RTD [RR-063, paragraph 18]. In terms of displacement rates, NE put forward its own preferred rates [RR-063, Appendix B Table 3] and considered that the displacement impact should principally be considered in terms of the area over which some level of displacement may occur, both in terms of km² and % of the GW SPA [REP3-143, Paragraph 2]. NE also highlighted that a different iteration of the displacement gradient, not yet endorsed by other ANCBs, was available and would assist in understanding the impacts [RR-063, Paragraph 5.9].
- 7.4.79. The ExA explored the issues relating to RTD [EV-033] and through further written questions [PD-012] seeking further evidence on the existing extent of displacement upon the GW SPA and the Applicant's justification for a 1% mortality rate to be applied as opposed to the range of rates suggested by NE [REP2-064].
- 7.4.80. In response the Applicant provided assessment updates including the application of the recommended displacement gradient [REP5-043]. From this, the Applicant concluded:
- 1) The Applicant calculated displacement from the SEP wind farm site in 1km bands out to 10km from the boundary. However, as SEP is located approximately 6km from the boundary of GW SPA, there would be no overlap with the SPA 10km buffer until 6km from SEP, and therefore only bands from 6-10km are required for the project-alone assessment. The displacement gradient is depicted in [REP5-043, Table 12-1].

- 2) Construction phase – the total affected area of the GW SPA at any one point in time (assuming one cable-laying vessel would be active at any one time, and that displacement effects would occur up to 2km from the vessel) would be 12.57km², representing around 0.36% of the total GW SPA (3,535.78km²).
- 3) Construction phase – the sequential construction scenario for the Proposed Development would, at worst, result in approximately 25 days of cable-laying within proximity to the GW SPA [REP4-031]. In any event, the Applicant anticipated birds would return to the affected area within a few hours after vessel departure.
- 4) Operational phase – A predicted 0.01-0.07% project-alone increase to mortality and 0.87-8.73% in-combination increase to mortality, due to displacement.
- 5) SEP would increase the effective area of the GW SPA over which displacement could occur, in-combination with other plans and projects from 20.48% (without the Proposed Development) to 20.63%.

7.4.81. NE asserted the cumulative impact would be greater than the Applicant predicted and would accord with the conservation objectives for the GW SPA. Thus an AEoI could not be ruled out and a significant adverse effect at an EIA-level could also not be ruled out [REP2-037] [REP2-049] [REP4-049] [REP5-091] [REP5-093]. The Applicant maintained that an evidence-based approach had been taken with a suitable level of precaution accounted for. This is discussed further in Chapter 26 of this Recommendation Report.

7.4.82. To limit displacement from vessel movements, the Applicant has proposed measures to reduce disturbance and displacement effects arising from both construction and operation-related vessels. This involves the adoption of best practice protocols for vessels and is set out in the OPEMP [REP3-060] [REP7-036, Sections 5.1.1 and 5.3.1].

7.4.83. NE welcomed the inclusion of these measures, though wished for other mitigation in the form of seasonal restrictions being imposed [REP4-049]. NE also suggested an AEoI could be avoided if all turbines at SEP were located at least 10km away from the GW SPA [REP3-143, Paragraph 3 and Point 24]. NE did however acknowledge that, with the majority of the Proposed Development further away from GW SPA than the turbines at the existing Sheringham Shoal Offshore Wind Farm (SOW), the principal areas of concern as regards array displacement from the SEP lie to the west and east of SOW [REP7-112, Q4.14.1.10].

7.4.84. NE was able to agree with the Applicant's conclusions that no impact of greater than minor adverse significance is predicted. However, NE stated that they did not agree with the Applicant's cumulative assessment since it believes the Proposed Development would only add to an existing significant adverse displacement impact on RTD [REP7-109, Table 8].

7.4.85. The Applicant's adopted further mitigations when preparing its final position, which is expressed in the Apportioning and Habitats Regulation Assessment Technical Note (Revision D) [REP8-038]. Within that document, the Applicant commits to mitigations including:

- 1) Seasonal restrictions – The Applicant committed to such a restriction under the Deemed Marine Licenses (DMLs), Schedules 10 to 12, Part 2, Condition 13(d)(vi), and with Conditions 24 to Schedules 12 and 13 of the DMLs to minimise disturbance during the period 1 November to 31 March (inclusive) [Paragraph 116].
- 2) Best practice – In addition to the best practice protocols contained in the D3 version of the OPEMP [REP7-036], the Applicant made a further commitment to

control crew transfer vessels and to ensure vessels travelled in convoy [Paragraphs 122-126].

- 3) Turbine restriction zone – The Applicant conceded to removing the ability to construct wind turbines within a small area to the southeast and southwest corners of the SEP proposed array through the works plans submitted at D8 [REP8-004]. This amounted to a 7.8% reduction of the SEP wind farm site (7.56km², thus reducing flexibility in the project design) [Paragraphs 118-121].

7.4.86. The Applicant stressed that these concessions were made solely to get agreement with NE and avoid the need for a derogation case to be made, despite its own established position no significant adverse effects would occur [REP8-062, paragraph 153].

7.4.87. NE welcomed the mitigation measures and expressed a need for their inclusion if development consent was granted [REP8-043, ID42]. Nonetheless, NE maintained that based on the cumulative mortality figures showing an increase in BDMPS baseline mortality of 1.10-10.5%, it was unable to rule out a significant adverse impact from cumulative displacement mortality at an EIA scale [REP8-102].

Puffin

7.4.88. At the close of the Examination, NE agreed with the Applicant's conclusion of no measurable increase in puffin mortality predicted to arise from the Proposed Development [REP5-091]. Further information can be found in Chapter 26 of the Recommendation Report.

ExA's Reasoning

7.4.89. With regards to displacement and barrier effects, only limited disputes between the Applicant and the ANCB remained at the close of the Examination, primarily regarding levels of precaution and the parameters used in impact assessment. The ExA note that other offshore wind farm projects that are currently at pre-application stage have not been included in the CEA and the level of detail regarding those projects is limited. The ExA considers that this approach to CEA is consistent with the advice set out the Planning Inspectorate's AN17. Nonetheless, the frequent updates from the Applicant, throughout the Examination, allowed suitable identification of an appropriate baseline, identification of impacts and for consideration of mitigation and monitoring requirements. This is confirmed in the final SoCG between the Applicant and NE [REP8-043, Table 3-2].

7.4.90. The ExA acknowledges that constructing an OWF would inevitably lead to unavoidable displacement and barrier effects, thus bird species sensitive to obstacles would naturally seek to avoid areas occupied by wind turbines. The ExA considers even though the Applicant and NE are in agreement for some species that an AEoI could be ruled out, this does not mean that adverse cumulative effects at the EIA-scale on the identified species would be avoided.

7.4.91. Polarised views remained at the close of the Examination in relation to the auk displacement assessment. The ranges provided for displacement rates and mortality rates were in line with ANCB advocated ranges, but NE pushed for a higher degree of precaution than that proposed by the Applicant. 70% displacement and 2% mortality were the preferred rates for the assessment in Hornsea 4, although still considered over precautionary by the Applicant [REP8-052]. The ExA however considers that adopted the higher level of precaution is appropriate, given that NE's position has been ratified by the SoS in other consented OWFs.

- 7.4.92. The ExA has considered all the evidence submitted to the Examination and kept note of the evolving position in respect of assessment parameters and the presence of other offshore wind farms. The following conclusions are drawn by the ExA in respect of the primary species of concern.
- 7.4.93. **Auk Species (Guillemot and Razorbill):** In respect of guillemot, the ExA notes the positions of the parties, particularly the responses given to the Rule 17 letter [PD-022]. The ExA considers it sound to rely on NE's conclusions [REP8-101], particularly in light of the Hornsea 4 decision, and finds that after the proposed mitigation, there would still be a residual adverse effect on the North Sea population of Guillemot, from the Proposed Development alone, and cumulatively with other projects selected for CIA. The ExA considers that a cumulative significant adverse effect at the North Sea population scale is likely when it is considered alongside consented projects. Again, this has implications for the HRA considered in Chapter 26 of this Recommendation Report.
- 7.4.94. For razorbill, the ExA considers that the Applicant has submitted a robust case that there would not be significant adverse displacement or barrier effects upon the species [REP5-063]. The modelling does suggest that there would be an adverse cumulative impact on the razorbill population when the Proposed Development is considered with consented projects, but that this is not likely to be significant considering the predicted level of mortality and the overall size of the North Sea population of razorbill. Such a position is iterated in the SoS conclusions in Hornsea 4 and gives the ExA confidence that the Applicant's assessment is indeed sound and based on appropriate evidence.
- 7.4.95. The ExA concludes that the cumulative displacement and barrier effects would remain a notable impact of the Proposed Development, specifically for the guillemot species.
- 7.4.96. **Puffin:** On the basis that there is firm agreement between the Applicant and NE that an adverse effect would not occur to puffins from the Proposed Development, either alone or cumulatively, the ExA has no reason or evidence to depart from this agreed position and concludes that the Proposed Development is unlikely to lead to significant effects on puffin.
- 7.4.97. **Common Scoter:** On the basis that there is firm agreement between the Applicant and NE that an adverse effect would not occur to common scoter from the Proposed Development, either alone or cumulatively, the ExA has no reason or evidence to depart from this agreed position and concludes that the Proposed Development is unlikely to lead to significant effects on common scoter.
- 7.4.98. **Red-throated diver:** The ExA observes that the GW SPA is currently subject to a significant displacement impact at present from existing offshore wind farms, amounting for just over 20% of its total area. Whilst the proportion of the GW SPA affected by additional displacement effects from the Proposed Development would not be substantially increased, it would further extend the effects thus reducing the habitat for the RTD, resulting in further incremental loss of habitat via displacement effects. To this extent, the ExA was inclined to agree with NE that the impacts would be significant, particularly with the physical presence of the SEP array on the edges of the GW SPA. However, following the commitments secured through the dDCO and the amended works plans at Deadline 8 [REP8-004], [REP8-005] the ExA concludes such concerns are now alleviated to an extent. The proposed package of mitigation measures would effectively reduce impacts on RTD from the GW SPA so as not to be significantly adverse. The concession of the Applicant to reduce the developable area of SEP, though marginal in terms of the overall project area, would positively

contribute to reducing the effects. For this reason, the ExA agrees with the final position of the Applicant that there would be no likely significant adverse effects on these birds, either alone or cumulatively, although noting that NE does not agree with the cumulative impact position [REP8-043]. HRA implications regarding this species are considered in Chapter 26 of this Recommendation Report.

- 7.4.99. The small reduction in the developable area of the SEP array, as secured in the amended works plan [REP8-004] would be unlikely to affect the project's viability or feasibility. The other mitigations would be effectively secured within the OPEMP, secured via R13(d) of the rDCO.

Monitoring

- 7.4.100. Post-construction monitoring of effects on offshore ornithology was raised as an issue at the outset of the Examination by NE [RR-063] and the RSPB [RR-083].

- 7.4.101. The Applicant's submitted Offshore IPMP [APP-289] made some specific provisions for monitoring effects on seabirds, and this was refined in latter versions [REP4-014], [REP7-029].

- 7.4.102. NE was critical of the quality of Offshore IPMP, finding fundamental faults that included, amongst other things, the following two principal issues:

- if monitoring found the impacts were worse than those predicted, there was no mechanism for adaptive management to take place to ensure remediation or additional mitigation was applied [REP3-146, points A8 and A19]; and
- a lack of base hypotheses and questions to be pursued and tested by the monitoring process, which should be present in the document and not left to a post-consent phase [REP5-090].

- 7.4.103. The Applicant responded [REP5-049, Q3.12.1.3] by drafting alternate wording to Condition 13(b) of Schedules 10 and 11 and Condition 12(b) of Schedules 12 and 13. The Applicant provided wording for the dDCO which stated:

"Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body."

- 7.4.104. The Applicant also amended the dDMLs in Schedules 10 to 13 [REP7-065, Q4.11.8.1], [REP8-005] to include a Condition to the effect of:

"(6) In the event that the reports provided to the MMO under sub-paragraph (4) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with the MMO in writing and implemented as agreed."

- 7.4.105. Finally, the Applicant made additions to the Offshore IPMP [REP7-029] including a number of hypotheses and questions as advocated by NE, which would subsequently be used to guide and inform the investigative nature of any future monitoring. Nonetheless the Applicant, reiterated that the Offshore IPMP was only intended to provide a framework for further discussions post-consent and that, if monitoring gave rise to a need for further mitigation, the type and appropriateness of the mitigation would be discussed at the relevant time with the ANCBs and the MMO.

- 7.4.106. NE retained an objection in-principle to the Offshore IPMP at the close of the Examination, highlighting that in previous made DCOs where IPMPs have been unclear on the survey requirements it has led to post consent monitoring disagreements and/or monitoring not being fit for purpose. NE remain unsatisfied with the amendments to the dDCO and the dDMLs within Schedules 10-13, since there was no commitment for any concerns raised through monitoring to be addressed, other than through further monitoring [REP8-101]. The Applicant also set out a case that any post-monitoring mitigation measures may themselves require a separate consent [REP8-061, ID4] and so it would not be suitable to write any further clauses into the dDCO.
- 7.4.107. The MMO, as the body ultimately responsible for the discharge of the relevant dDML Conditions, was involved in discussions about Condition wording throughout the Examination but raised no specific concerns regarding the efficacy or implementation of the Offshore IPMP. In [REP8-092] the MMO confirmed that it was not seeking any further changes to the drafting of the dDMLs, agreeing with the content of the final Offshore IPMP [REP8-101].
- 7.4.108. The Offshore IPMP is a document to be certified under Article 38 and Schedule 18 of the Applicant's final dDCO [REP8-005] Furthermore, the Applicant committed to preparing an ornithological monitoring plan under Condition 13(j) and 18(4)(c) in Marine Licence 1 (and equivalent clauses in the other submitted dDMLs) [REP8-005, Schedules 10-13].

ExA's Reasoning

- 7.4.109. The ExA considers that the complexity of offshore ornithology and habitats and the interaction with OWF warrants thorough, detailed and rigorous monitoring. The ExA is satisfied those revisions that have been undertaken by the Applicant to the Offshore IPMP, in line with NE's recommendations, have resulted in a more robust set of monitoring measures than that first submitted to the Examination. The updated approach would ensure data gathering to inform both the success of ornithological mitigation and compensatory measures for the benefit of future generations and for future understanding of the impacts prospective windfarms may cause.
- 7.4.110. The ExA recognises the potential for monitoring surveys to identify effects either greater than those envisaged or deficiencies in the mitigation being applied. In such circumstances, it would be necessary to adopt an adaptive approach so that different means and methods of mitigation could be imposed to reduce any adverse effects to an acceptable level. The ExA notes the respective parties' positions on this matter, including the Applicant's submissions that any post-monitoring mitigation measures may themselves require a separate consent, [REP8-061, ID4] but nonetheless considers that there is currently no obligation in the dDCO on the Applicant, via its monitoring processes, to discuss with the relevant parties appropriate remedial or adaptive management measures. Whilst the ExA acknowledges the Applicant may not be able to immediately undertake appropriate action, perhaps for reasons of needing a new Marine Licence, the only commitment secured is that for additional monitoring.
- 7.4.111. The ExA therefore considers, to strengthen the Offshore IPMP and provide reassurance that ongoing monitoring would contribute towards ongoing effective mitigation for offshore ornithology species, that an additional Condition should be included in the dDMLs. This wording requires the Applicant to proactively seek solutions to remedy any situation where the effects of the Proposed Development, post-mitigation, are more adverse than what was anticipated. The SoS should therefore give consideration to Conditions 20 (of Schedules 10 and 11) and

Conditions 19 (of Schedules 12 and 13) to be amended with the wording set out below or equivalent:

“(7) In the event that the reports provided to the MMO under sub-paragraph (4) identify that there are significant adverse effects post-mitigation, the Applicant shall notify the MMO and the relevant ANCBs of this in writing with a view to agreeing to a course of adaptive management/mitigation to reduce such effects. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent. Any such agreed or approved adaptive management/mitigation should be implemented in full to a timetable first agreed in writing with the MMO.”

- 7.4.112. The ExA recommends that the SoS should consult with NE, the MMO and the Applicant on the proposed wording in the rDCO.
- 7.4.113. The Offshore IPMP and Ornithological Monitoring Plan are secured through the rDCO and the rDMLs, with consultation and collaboration with the relevant statutory bodies in each case. The ExA therefore has confidence in the post-consent, pre-construction and operational monitoring processes established by the Applicant, and considers positive outcomes of monitoring would be enhanced with the additional clause set out above.

7.5. CONCLUSIONS

- 7.5.1. The ExA has considered the effects of the Proposed Development on marine and coastal ornithology in the context of the policy framework set by NPS EN1 and NPS EN3, the Marine Policy Statement and the EIEOMP. The ExA is content that the ES addresses all of the relevant types of impact listed in NPS EN3 paragraph 2.6.101, and that its recommendations on assessment and mitigation (paragraphs 2.6.102 to 2.6.110) have been properly considered by the Applicant.
- 7.5.2. The ExA welcomes the great degree of alignment between the Applicant and NE in the approach to offshore ornithological assessment modelling.
- 7.5.3. The ExA concludes that residual adverse effects would remain for gannet, great black-backed gull, kittiwake and sandwich tern even after embedded mitigation is applied. The ExA observes that, from an EIA perspective, there are no other meaningful forms of mitigation available to prevent collision risk, or to offset the effects, on a number of species. It concerns the ExA that adverse effects remain for great black-backed gull for which nothing is being proposed to mitigate.
- 7.5.4. The ExA concludes that the residual adverse effects on razorbill, puffin and common scoter would not be significant from the project alone or in combination. The residual adverse effects upon red-throated diver would only be acceptable to the ExA following the incorporation of the specific mitigation measures, including the prevention of turbine construction in limited areas to the southwest and southeast of DEP, as secured on the works plans [REP8-004]. The ExA however disagrees with the Applicant regarding the predicted impacts on guillemot species and consider an adverse effect would occur on a cumulative basis.
- 7.5.5. The ExA notes the dynamic nature of best practice guidance in the offshore wind farm industry as an increasing number of projects begin operation, and it welcomes the opportunities these provide for ornithological monitoring surveys. The results can add to knowledge, help to check impact prediction and inform best practice. In accordance with NPS EN3 Paragraph 2.6.71 the ExA concludes that reasonable measures are proposed by the Applicant and secured with the Offshore IPMP [REP7-029] to implement proper monitoring of effects arising from the Proposed

Development. However, it is important that the Proposed Development reacts to its own effects and seeks to address any adverse effects that may remain if monitoring shows that adopted mitigation measures are not effective. To this extent, the ExA recommend to the SoS that Condition 20 (schedules 10 and 11) and Condition 19 (schedules 12 and 13) [REP8-005] of the dDMLs contained in the rDCO contain a clause requiring adaptive management measures to be implemented, and such clause should be consulted on with the relevant bodies.

- 7.5.6. Despite the Applicant taking positive design steps to reduce collision and displacement risks, there remains some adverse impacts. The ExA concludes that there will be a likelihood of adverse effects for gannet, kittiwake, guillemot, sandwich tern and great black-backed gull when the impacts of the Proposed Development are considered alongside those of the consented offshore wind farms used in the ES cumulative assessment [APP-196] [APP-272] [REP5-063].
- 7.5.7. Both the collision and displacement effects would result in harm to offshore ornithology interests.
- 7.5.8. For the purposes of this Examination, subject to the amendments to the rDCO as suggested above, the ExA concludes that this matter carries moderate weight against the case for the Proposed Development for all Development Scenarios.

8. MARINE MAMMALS

8.1. BACKGROUND AND POLICY CONTEXT

8.1.1. This Chapter considers the effects of the Proposed Development, both alone and cumulatively, on marine mammals. The potential impact on marine mammal features of European Sites, including the harbour porpoise feature of the Southern North Sea (SNS) Special Area of Conservation (SAC), are considered in detail in Chapter 26 of this Recommendation Report.

National Policy Statement (NPS)

8.1.2. Section 5.3 of NPS EN1 sets out policy in relation to biodiversity impacts in general. Paragraphs 2.6.90 to 2.6.99 of NPS EN3 set out the specific policy expectations for marine mammals.

8.1.3. The assessment for Marine Mammals set out in NPS EN1 and NPS EN3 require from the Applicant:

- the Environmental Statement (ES) to clearly set out any effects on internationally, nationally or locally designated sites of ecological importance and provide sufficient environmental information proportionate to the infrastructure (NPS EN1, Paragraph 5.3.3);
- consultation on the assessment methodologies to be undertaken in the early stages (NPS EN3, Paragraph 2.6.65);
- an assessment for all stages of the lifespan of the Proposed Development (NPS EN3, Paragraph 2.6.64);
- to provide any relevant data collected from post-construction ecological monitoring from existing operational offshore wind farms (NPS EN3, Paragraph 2.6.66); and
- to set out the potential of the scheme to have positive and negative effects (NPS EN3, Paragraph 2.6.67).

8.1.4. In reaching a decision, the Secretary of State for Energy Security and Net Zero (SoS) should take into account:

- the appropriate weight to be given to a designated site (NPS EN1, Paragraph 5.3.8);
- the benefits of nationally significant low carbon energy infrastructure, including any benefits for biodiversity conservation (NPS EN1, Paragraph 5.3.6);
- that the designation on an area as a Natura 2000³ site does not necessarily restrict the construction of operation of offshore wind farms (NPS EN3, Paragraph 2.6.69);
- NPS EN1 also highlights the fact that the decision-maker needs to take account of any mitigation measures that may have been agreed between the Applicant and Natural England (NE) or the Marine Management Organisation (MMO), and whether either organisation has granted or refused or intends to grant or refuse, any relevant licences, including protected species mitigation licences;
- that unless suitable noise mitigation measures can be imposed by requirements, the application may be refused (NPS EN3, Paragraph 2.6.94).

UK Marine Policy Statement 2011 (MPS)

³ European Site following the UK's withdrawal from the EU

- 8.1.5. Policies of the MPS and the East Inshore and East Offshore Marine Plans (EIEOMP) are of relevance to this Chapter.

8.2. THE APPLICATION

Environmental Statement (ES)

- 8.2.1. The Applicant's assessment of effects on marine mammals is set out in Chapter 10 of the ES [APP-096] which includes pinnipeds (seals) and cetaceans (whales, dolphins and porpoises). This chapter is supplemented by technical reports and documents including:

- Underwater Noise Modelling Report [APP-192].
- Draft Marine Mammal Mitigation Protocol (MMMP) [APP-288].
- Offshore In-Principle Monitoring Plan (Offshore IPMP) [APP-289].
- In-principle Site Integrity Plan for the SNS SAC (SIP) [APP-290].
- Outline Offshore Operations and Maintenance Plan (OOMP) [APP-296].
- Outline Project Environmental Management Plan (OPEMP) [APP-297].

- 8.2.2. The latest versions of each of the above documents, as well as the ES, are listed as documents to be certified in Article 38 of the draft Development Consent Order (dDCO).

Scope and Methodology

- 8.2.3. The ES [APP-096] identified a number of potential ecological impacts. The impact pathways were considered either in terms of direct loss or damage to habitats or adverse effects on particular species bearing in mind the maximum design scenario, as set out in the project description of the ES [APP-090].

- 8.2.4. The study areas for all relevant sections of the ES were agreed between the Applicant and the Appropriate Nature Conservation Bodies (ANCBs) prior to the submission version of the application.

- 8.2.5. As marine mammals are highly mobile and transitory, the Applicant considered it necessary to consider the wider North Sea region. Consequently, the study areas were determined with reference to the project area and the wider region. For each species of marine mammal study areas were based on the relevant Management Unit (MU) as follows:

- Harbour porpoise North Sea MU;
- White-beaked dolphin Celtic and Greater North Seas MU;
- Minke whale Celtic and Greater North Seas MU;
- Grey seal South-east England, North-east England and UK East Coast MUs; and
- Harbour seal South-East England MU.

- 8.2.6. The Applicant agreed the extent of its assessments in relation to cumulative effects upon marine mammals with the ANCB during the pre-application phase, as recorded in ES Chapter 10 [APP-096, Section 10.4.4]. This included a tiered approach used by the Joint Nature Conservation Committee.

Applicant's Assessment of Effects and Proposed Mitigation

- 8.2.7. The ES [APP-096, Section 10.6] details the potential impacts which have been assessed for the construction, operation and decommissioning phases. This includes physical and auditory injury, behavioural impacts, barrier effects, vessel interaction (collision risk), changes to prey resource, and changes to water quality.

- 8.2.8. On the worst-case assumption that all turbines would need to be constructed with a piled foundation, the Applicant sets out that a total of 212 hours (9 days) worth of disturbance would occur [APP-096, Table 10-1]. To further define the worst-case, the Applicant assessed the potential for a single piling event in a 24-hour period, two piling events sequentially (i.e. 2 piles in a 24 hour period, one after the other) and then two piling events simultaneously in either one or two locations (i.e. both at Sheringham Shoal Offshore Wind Farm Extension Project (SEP) or one at SEP and one at the Dudgeon Offshore Wind Farm Extension Project (DEP)).
- 8.2.9. The Applicant proposed a range of embedded (designed-in) mitigation measures in the ES [APP-096, Table 10-2], including:
- a target burial depth between 1 to 2m for all cables to control electro-magnetic fields;
 - soft-start piling with lower hammer energies used at the beginning of a piling sequence to reduce acoustic injury to nearby marine mammals;
 - an approved MMMP that would use Acoustic Deterrent Devices (ADDs) as the primary mitigation measure prior to a soft-start;
 - a code of conduct for vessel operators to avoid collisions through course changes or deliberate approach; and
 - an approved Unexploded Ordinance (UXO) MMMP that would use ADDs, marine mammal observers and scare charges as the primary mitigation measure prior to detonation.
- 8.2.10. Additional mitigation measures proposed by the Applicant include using best practice techniques and due diligences regarding impacts from potential pollution that are included in the OPEMP [REP7-035]. The Applicant does explain [APP-096] that further mitigation measures required to minimise potential impacts of any physical or permanent auditory injury of marine mammals would be included in the MMMP for piling. The MMMP [APP-288] [REP1-013] would be fully developed in the pre-construction period and would be based upon best available information, methodologies, industry best practice, latest scientific understanding, current guidance and detailed project design. Conditions within the draft Deemed Marine Licences (dDMLs), such as condition 13 in Schedule 10, contained within the dDCO secure the preparation, delivery and adherence to the MMMP.
- 8.2.11. Following the implementation of the embedded mitigation, the Applicant's case is that an adverse effect on marine mammals including harbour porpoise, white-beaked dolphin, minke whale, grey seal and harbour would occur but the effect, once the MMMP had been applied, would reduce to a minor adverse effect during construction and thus non-significant for the project alone and cumulatively with other projects.

8.3. LOCAL IMPACT REPORTS

- 8.3.1. The Local Impact Reports submitted were silent on the matter of marine mammals.

8.4. THE EXAMINATION

- 8.4.1. The Habitats Regulations Assessment (HRA) implications of underwater noise on marine mammals are examined in detail in Chapter 26 of this Recommendation Report, although there is necessary overlap within this Chapter.
- 8.4.2. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on are:

- 1) methodology and conclusions;
- 2) disturbance and barrier effects; and

3) scope and suitability of the mitigation.

Methodology and conclusions

8.4.3. The MMO and NE raised a number of queries and concerns regarding the methodology used by the Applicant in the ES [REP1-138] [REP3-133]. The Applicant worked proactively to address the concerns, resulting in a reasonable level of agreement with both the MMO and NE on a number of points [REP5-093], [REP6-026] and a great deal of common ground at the end of the Examination [REP8-030], [REP8-032]. Taking a proportionate approach, the ExA is not reporting on every item where there was initial disagreement but subsequent agreement. However, key areas of dispute and concern are reported below.

Dose Response Curves

- 8.4.4. The Applicant stated that there are currently no agreed thresholds or criteria for the behavioural response and disturbance of marine mammals, therefore it is not possible to conduct underwater noise modelling to predict impact ranges [APP-096, Paragraph 308]. The MMO accepted this but suggested one such way would be to use species-specific dose-response curves to assess disturbance from piling [RR-053, Paragraph 4.4.15], setting out the potential numbers of animals potentially disturbed by construction effects at noise contours of 5 decibel (dB) intervals.
- 8.4.5. The technical note from the Applicant incorporated a dose response curve assessment [REP3-115, Figures 4.1 to 5.4], concluding that the updated assessments using the dose response curve approach do not result in any changes to the relevant impact significances presented in the ES [APP-096].
- 8.4.6. However, NE observed that the dose response curve methodology raised the potential for direct noise impacts on the harbour seal haul-out and breeding site at Blakeney Point within the Wash and North Norfolk SAC [REP7-110, point D10]. The Applicant undertook further assessment in response and concluded that the noise contours for 120dB and 125dB overlap with the Blakeney Point haul-out site, with the contour for 130dB close to the site [REP7-056].
- 8.4.7. The ExA sought further evidence on this with a view to determining if an adverse effect on a seal haul-out site would occur [PD-017] [PD-021], to which the Applicant submitted literature evidence to suggest that the dose response curve for seal species shows no reaction to piling noise at less than 145dB and, as such, no significant effects would be predicted [REP7-056, Paragraphs 281 to 286].
- 8.4.8. NE disagreed in part with the Applicant, noting that 145dB is the threshold for a significant disturbance and literature clarified that there would be a decrease in the mean density of seals in areas exposed to piling noise down to 120dB. NE consider that there is the potential for in-water disturbance of harbour seals at the haul-out site due to piling noise and up to 396.6 harbour seals from the Wash and North Norfolk Coast SAC may be disturbed from piling at SEP, and similarly 112.3 animals disturbed from piling at DEP. However, NE affirmed that the population modelling provides assurance that the level of disturbance predicted would not cause a discernible population-level effect [REP8-104].
- 8.4.9. The MMO welcomed the use of dose response curve approach, noting an appropriate use of literature and assessment. Other than a slight discrepancy, the MMO were content with the assessment [REP5-080].

Population Modelling

- 8.4.10. The Applicant's assessment concludes moderate adverse cumulative impacts from disturbance for grey seal and harbour porpoise [APP-096, Table 10-125]. The Applicant considered that, once mitigation had been applied, the impact would be reduced to minor adverse. NE did not agree with this conclusion requesting further investigation into whether a disturbance impact may be significant [REP1-138, point D9] including the use of the Interim Population Consequences of Disturbance methodology.
- 8.4.11. The Applicant updated its ES assessments in the Marine Mammals Technical Note [REP3-115]. The updates, as requested by NE, included:
- updates to both grey seal and harbour seal baseline information, including updated density estimates and population estimates;
 - updates to the assessment for disturbance to (a) provide a review of the potential for disturbance to all assessed marine mammal species; (b) take account of the worst-case disturbance ranges provided within the literature; (c) provide population modelling to determine population level consequences of disturbance from piling; (d) determine requirements for mitigation of disturbance; and (e) provide updates to the assessment of disturbance from ADDs to incorporate actual required durations; and
 - updates to the cumulative effects assessment to include (a) project specific data, where available; (b) an assessment of both geophysical and seismic surveys as a moving noise source; (c) an assessment of the corrected number of vessels for the SEP and DEP construction scenario; (d) population modelling to determine population level consequences of disturbance from piling at all included offshore wind farms; and (e) further consideration of the potential for cumulative disturbance at seal haul-out sites.
- 8.4.12. Having reviewed the technical note, NE considered that the Applicant has applied reasonable population parameters as a proxy for where region-specific information is missing, as is the case for harbour and grey seals [REP6-029]. NE went on to state that the disturbance distances, and the residual days of disturbance, used by the Applicant are suitably precautionary and the range of forecast intervals that have been presented are appropriate.
- 8.4.13. NE concluded that the Applicant's approach for defining potential significant impacts is appropriate in most scenarios. The population modelling of harbour seal from both project alone and cumulative effects shows effectively no difference in the size of the unimpacted population mean and the impacted population mean. Therefore, the results as presented indicate that offshore wind impacts will not cause any additional decline to the harbour seal populations assessed [REP6-029].
- 8.4.14. NE however retained a concern regarding the assessment for bottlenose dolphins, particular the Applicant's decision to downgrade the magnitude of the assessment [REP6-029]. The Marine Mammals Technical Note [REP7-056, Table 3-1] presents the rationale from the Applicant, concluding no discernible impact to the Greater North Sea MU bottlenose dolphin population in the worst-case project scenario where both SEP and DEP are constructed sequentially. At the close of the Examination, NE confirmed positively that the population modelling is sufficient to agree with the Applicant's conclusion of no significant impact on bottlenose dolphin from the project alone or cumulatively with other offshore wind farms [REP8-104].

Underwater Noise Impacts

- 8.4.15. The Applicant's assessment [APP-096] considered the potential for adverse noise upon marine mammals during construction and operation, particularly from foundation installation through the use of piling techniques. An underwater noise

modelling report was submitted with the application to demonstrate the approach taken, the conclusions drawn and the mitigation necessary [APP-192].

- 8.4.16. It was agreed that further underwater noise modelling work by the Applicant to address concerns raised by the MMO could be undertaken post-consent and the ES was sufficient for assessment purposes [EV-078] [EV-082] [REP3-133].
- 8.4.17. However, the MMO did retain some concerns regarding the noise modelling and conclusions, particularly the Applicant's decision to screen out impacts of Temporary Threshold Shift (TTS) and Permanent Threshold Shift (PTS) from the cumulative effects assessment (CEA). The MMO stated that the justification given by the Applicant [APP-193, Paragraph 10.3.2.1] was insufficient and that PTS and TTS still needed to be assessed [REP3-133].
- 8.4.18. The Applicant responded that the potential for TTS / fleeing response has been screened in for assessment, but only assessed where limited information was available. Meanwhile, PTS had been screened out to NE's satisfaction [REP3-147]. The Applicant also pointed to other instances where PTS had been screened out of CEA in most of the recently made DCOs such as East Anglia ONE North OWF [REP4-037]. The MMO [REP5-080] maintained reservations regarding the justification presented but acknowledged that cumulative effects are difficult to be assessed.
- 8.4.19. The ExA further explored the potential for underwater noise arising cumulatively from piling operations both within the Proposed Development and other consented windfarms [PD-017, Q3.12.2.5]. The Applicant responded [REP3-115, Table 4-34], that for the updated cumulative disturbance assessments, harbour porpoise, grey seal and harbour seal are assessed as having a major adverse impact. However, the Applicant submitted that through mitigation measures contained in both the MMMP [REP1-013] and the SIP for the harbour porpoise feature of the SNS SAC [APP-290], disturbance would be reduced to non-significant levels.
- 8.4.20. Furthermore, the Applicant submitted that the principal reason for controls on piling between the various wind farms being developed in the Southern North Sea is to prevent any adverse effect on the integrity of the SNS SAC [REP5-049]. As set out in the Applicant's response [REP5-049, Q3.12.2.4], the SIP mechanism has been developed precisely to manage this and is the appropriate mechanism to implement this mitigation, and that a separate condition that seeks to control piling as between SEP, DEP and other consented offshore wind farms would therefore be a duplication of controls that are already in place, which could cause uncertainty.
- 8.4.21. NE confirmed that mitigation measures to reduce in-combination disturbance, such as a commitment to prevent concurrent piling between offshore windfarms, are controlled by the SIP at present, and would presumably be secured by the MMO during the discharge of the SIP [REP5-094]. NE does not consider there to be a need to include a condition of this nature within the dDMLs for the Proposed Development for marine mammals. Meanwhile, the MMO [REP5-080] raised no concerns, stating satisfaction with the SIP to control the timing and nature of noisy activities to ensure that the relevant in-combination disturbance impact thresholds for marine mammals would not be breached.

ExA's Reasoning

- 8.4.22. From an Environmental Impact Assessment (EIA) perspective, the final offshore Statement of Common Ground (SoCG) with NE [REP8-032] and the SoCG with the MMO [REP8-030] indicates a good level of agreement with the Applicant's marine mammal assessment methodology and conclusions, including for cumulative

impacts. The ExA concludes that the additional work undertaken by the Applicant throughout the Examination, such as providing the dose response curve analysis, has demonstrated that the ES provided a robust assessment of effects.

- 8.4.23. There are no outstanding concerns regarding the Applicant's approach or assessment on any marine mammal species. Further detail would come forward for the project, if consented, that would inform and shape the structure of the mitigation being proposed in the MMMP. The ExA is confident that the MMMP would come forward at an appropriate juncture in the pre-construction stage of the Proposed Development because of the conditions within the dDMLs.
- 8.4.24. In response to the discussion regarding impacts on the seal haul-out site at Blakeney, the ExA accepts NE's position that the level of disturbance predicted would not cause a discernible population-level effect. The ExA also speculates that the revisions to the SEP array construction area (made in response to red-throated diver mitigation as reported in Chapter 7 of this Recommendation Report) may also have a marginal benefit for the seal haul-out site. Despite the concerns raised, ExA relies on NE's final position and finds no matters of concerns pending for seals at Blakeney Point haul-out site.
- 8.4.25. Overall, there is general consensus among Interested Parties (IPs) regarding the appropriateness and thoroughness of the EIA methodology used. The ExA does not have any basis to find otherwise and agrees with the parties on these conclusions. The ES and the related technical notes all stand to be certified documents under Schedule 18 of the rDCO, enacted under Article 38.

Disturbance and barrier effects

- 8.4.26. NE raised concern that the marine mammals could be adversely impacted by disturbance during the construction phase [RR-063]. Specifically, NE raised that the estimations of temporary disturbance when considered at various population scales exceed the Applicant's own thresholds of significant effect both in terms of EIA and HRA. Significant proportions of the harbour porpoise, harbour seal and grey seal populations would potentially be disturbed. NE felt the impacts to marine mammals, namely seals is potentially underestimated, and the effects could be significant and therefore more information, based on telemetry data, should be presented with regards to seal movements [REP1-139, point D6].
- 8.4.27. The Applicant's technical note [REP3-115, Paragraph 299] stated there was evidence that seals have been recorded transiting and foraging within operational windfarms, so there would not be any lasting disturbance or exclusion effects post-construction. It was also commented that the foraging ranges of the grey and harbour seals species were extensive, so if a barrier effect were to occur, the species could easily compensate by foraging elsewhere in their range [REP3-115, Paragraph 302]. The technical note continued [REP3-115, Tables 5-17, 5-18 and 5-23] to set out that proportions of respective marine mammal populations subject to disturbance would be low (< 20%). The Applicant also responded to concerns of IPs expressed at the Relevant Representation (RR) stage through adopting the vessel code of conduct within the OPEMP [REP1-018].
- 8.4.28. NE confirmed contentment with the conclusion the barrier effects would result in a low magnitude of effect and therefore would not affect the ES conclusion of minor adverse significance [REP2-051, point 49]. NE confirmed that the disturbance distances, and the residual days of disturbance, used by the Applicant are suitably precautionary and the Applicant's review of the available project data for screened in offshore wind farms projects appeared comprehensive and based on the best available information at the time [REP6-029].

- 8.4.29. Nonetheless, NE queried why the Applicant considered that a single piling scenario represented the worst-case for underwater noise as opposed to simultaneous piling at SEP and DEP, particularly given that both concurrent piling (2 piles being installed at the same time) and sequential piling of two monopiles (2 within a 24-hour period, one after the other) at SEP and DEP are within the project envelope for which consent is being sought [REP6-029].
- 8.4.30. The Applicant submitted that as the Interim Population Consequences of Disturbance model accounts for the number of days disturbance, it was found that either simultaneous piling (two piling events at the same time) or sequential piling (two monopiles installed one after the other) in a day, whilst increasing the number of animals disturbed per day, also drastically reduced the total number of piling days, when compared to only one piling event per day. This meant that a single piling scenario of one monopile per day, with DEP being constructed following SEP, resulted in the most animals disturbed overall, maximising total residual disturbance and therefore being the worst-case [REP7-056, Table 3-1].
- 8.4.31. At the close of the Examination, NE was able to confirm that the Applicant had provided sufficient justification to demonstrate that single piling is likely to be the worst-case scenario for the purposes of population modelling and, as such, NE had no outstanding concerns related to this comment [REP8-104].
- 8.4.32. At the end of the Examination, it was common ground that barrier and disturbance effects had been appropriately identified and assessed by the Applicant [REP8-107].

ExA's Reasoning

- 8.4.33. More detail regarding foundation type and choice is contained in Chapter 15 of this Recommendation Report. For the purposes of this section, the ExA is persuaded by the Applicant, in conjunction with IPs, that disturbance and barrier effects have been dutifully considered and do not represent a significant risk to marine mammal species. The rationale behind the worst-case scenario is sound and the ExA has no substantive evidence to the contrary, with both the MMO and NE in consensus with the Applicant.

Scope and suitability of the mitigation

MMMP

- 8.4.34. Mechanisms for the control of underwater noise, including the substance of draft mitigation plans and the wording of dDML conditions required to secure marine mammal mitigation, were key themes throughout the Examination of this topic.
- 8.4.35. The Applicant's MMMP [APP-288] [REP1-013] and SIP for the SNS SAC [APP-290] set out methods of mitigation. These aimed to prevent auditory injury to marine mammals arising from foundation construction for the wind turbines, introducing a number of measures to allow mammals to flee the area [APP-288, Paragraph 97] including bubble curtains, the use of ADDs and vibro-piling techniques. The Applicant committed to producing a final MMMP as part of a post-consent process to look specifically at mitigating effects on marine mammals from the detonation and disposal of UXO [APP-288, Section 1.4].
- 8.4.36. In response to questions from the ExA and comments from both NE and the MMO, the Applicant provided an updated MMMP to the Examination [REP1-013]. The Applicant also confirmed that horizontal directional drilling activities to bring the export cables from the offshore to onshore environment would not require specific mitigation and are thus not covered by the MMMP or SIP [REP3-103].

- 8.4.37. The MMO considered the revised MMMP addressed concerns and followed an approach in keeping with best practice guidance regarding soft-start up and ramp-up procedures, particularly by including a full mitigation procedure to be re-instigated if a break in foundation piling activities lasted more than 10 minutes [REP3-133].
- 8.4.38. NE initially raised that the MMMP would not mitigate against vessel disturbance impacts [REP1-138, point D18] and therefore there would be a real risk of significant unmitigated disturbance impacts. The Applicant responded through inclusion of best practice guidance for vessel movements during construction and operational phases of the Proposed Development in the OPEMP [REP7-035]. NE confirmed that the Applicant's position is accepted on the proviso that further assessment is conducted based upon the foundation type and installation method confirmed [REP8-107, point D2].
- 8.4.39. The draft MMMP secures this request from NE and also established a path for a separate MMMP covering UXO mitigation measures to be prepared and submitted in the pre-construction period when there is more detailed information on the UXO clearance necessary [REP1-013]. This is secured through conditions in the dDMLs, for example condition 13 in Schedule 10, and the approach has been agreed by the MMO [REP2-059].

SIP for the SNS SAC

- 8.4.40. The aim of the SIP is to ensure that underwater noise within the SNS SAC is managed and aligned with guidance from the Joint Nature Conservation Committee, which advises that noise must not exclude harbour porpoise from more than 20% of the relevant area of the site in any given day, or an average of 10% of the relevant area of the site over a season. More detail on the SIP is contained in Chapter 26 of this Recommendation Report but is reported on here in considering the Applicant's overall mitigation measures for marine mammals.
- 8.4.41. In this instance, as the Applicant reports [REP3-115, Table 5-14], the in-combination underwater noise exposure with the Proposed Development and other plans and projects has high potential to exceed both of these thresholds. The SIP is therefore required to ensure appropriate management and mitigation, which the Applicant claims it shall [APP-059, Paragraph 499].
- 8.4.42. The MMO considered [REP3-133] that the Applicant's SIP [APP-290] provided sufficient control over the timing and nature of noisy activities to ensure that the relevant in-combination disturbance impact thresholds for marine mammals would not be breached.
- 8.4.43. However, NE expressed concerns about how the potential noise issues would be managed if multiple offshore construction projects were being constructed simultaneously. NE stated they had no confidence in the SIP process for several reasons, concluding that mitigation measures should be committed to now in principle, with the final SIP used to discount mitigation measures that are no longer needed [REP3-147, Q2.12.2.1]. Until the mechanism by which the SIPs will be managed, monitored and reviewed is developed, NE stated it is unable to advise that the Applicant's approach is sufficient to address the cumulative impacts. Consequently, NE could not fully rule out the risk of an adverse effect on integrity on the SNS SAC. NE maintained this position at the end of the Examination [REP8-108].
- 8.4.44. The Applicant noted that NE's concerns were not project-specific and more at an overarching level [REP8-052, RIESQ7, RIESQ17]. The Applicant contends that the approach of submitting an In-principle SIP and draft MMMP, to be followed with a final SIP closer to the time of construction, provides the framework to identify

appropriate and effective marine mammal mitigation based on the best available information and guidance at that time [REP4-031] [REP5-049]. Regarding proven mitigation methods, the Applicant states that noise reduction measures, including bubble curtains, are included in the MMMP [REP4-028] and SIP as a potential mitigation option. However, developing and finalising the MMMPs and SIP preconstruction would allow the Applicant to take into account the latest, most effective, suitable and proven mitigation measure.

- 8.4.45. Prior to the close of the Examination, the SoS issued a decision on Orsted Hornsea Project Four Offshore Wind Farm (Hornsea 4). In response to the ExA's Rule 17 letter [PD-022], the Applicant highlighted that the SoS accepted that the SIP process is the appropriate process and means of mitigation to control noise impacts from multiple offshore wind farms in and around the SNS SAC [REP8-052].
- 8.4.46. Condition 13(h) in Schedule 10 (and equivalent in Schedules 11-13) of the dDCO [REP8-005] secure that in the event that driven, or part-driven, pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the draft MMMP, would be submitted six months prior to commencement of licensed activities. In addition, condition 14 of Schedule 10 (and equivalent) requires the provision of a SIP which accords with the principles of the In-principle SIP [APP-290] for approval, monitoring and enforcement by the MMO.
- 8.4.47. Despite the MMO being comfortable with the MMMP as drafted, NE maintained its overall objection to the SIP position at the end of the Examination [REP8-107].

Discharge of dDML Conditions

- 8.4.48. The MMO, in consultation where necessary with other stakeholders, is the authority to which the Applicant would submit documentation for approval under the terms of the dDMLs. Documents covering various matters, particularly management plans forming and containing the mitigation measures for the Proposed Development, would need written approval from the MMO prior to being implemented.
- 8.4.49. Throughout the conditions within all DMLs of the original dDCO [APP-024] there was a requirement for the Applicant to submit all pre-construction documentation at least four months prior to the commencement of the construction works. The MMO stated this was an insufficient period of time, with four months being an unrealistic and counter-productive proposition given the need for multiple rounds of consultation and a detailed review of each technical submission [RR-053, paragraphs 3.8.61 ff]. Such concerns over discharge timescales were also echoed by NE at the start of the Examination [RR-063, Appendix A, Point 8].
- 8.4.50. Following discussions outside of the Examination and in response to the ExA's questions [REP1-036, Q1.11.6.1], the Applicant amended all of the dDMLs attached to the dDCO [REP1-003, Schedules 10 to 13] to replace the references to four months with six months for certain documents. The exact conditions are listed in the Applicant's schedule of changes [REP8-007], as reported in Chapter 29 of this Recommendation Report.
- 8.4.51. The MMO were content that this position had been addressed at the close of the Examination [REP8-030, Table 4, ID2] although NE maintained that all discharges should be six months and not just some [REP8-107, Appendix A, Point 6]. The Applicant responded to state that the MMO, as the relevant discharging authority, were content with the revised timescales and any further amendments would not be considered helpful or necessary to the timely delivery of the Proposed Development [REP8-061, Point A6].

ExA's Reasoning

- 8.4.52. The ExA considers the Applicant has taken a reasonable approach to mitigation, with separate MMMPs for piling and UXO clearance to be developed for SEP and DEP at the pre-construction stage, taking account of the most suitable mitigation measures and up to date scientific understanding at the time of construction. These measures would be consulted upon with the MMO and ANCBs. The ExA thinks it is reasonable to take account of up-to-date scientific understanding and so finds it acceptable for mitigation to be developed at pre-construction stage.
- 8.4.53. The submission of a MMMP and a SIP remains a relatively standard approach for marine mammals that has been accepted by the SoS in previous cases. The ExA has not been presented with any substantive evidence that could necessitate a different approach to mitigation. Consequently, the ExA accepts that this is a matter whereby the situation is evolving both in terms of mitigation techniques and the identity of other offshore construction projects which are likely to overlap. As such it seems acceptable to secure the submission of a final SIP and MMMP in the rDCO.
- 8.4.54. The ExA is of the view that there would be a framework for future mitigation that strikes an appropriate balance between the need for certainty at this point and the flexibility to account for other mitigation measures that may come into use between now and the time of construction. The ExA considers that appropriate timescales for the consideration and discharge of dDML conditions, and the mitigation required therein, has been incorporated into the rDCO. The ExA concludes that while NE have outstanding concerns related to cumulative effects of noise on marine mammals, the management solutions are strategic and not within the scope of the application or this Examination to resolve.
- 8.4.55. Based on the evidence before us and having regard to the mitigation that would be provided in the final version of the MMMP [REP1-013], the ExA is satisfied that the impacts of the project alone and cumulatively on marine mammals would be acceptable subject to appropriate mitigation being implemented as outlined in the draft MMMP and updated in the final MMMP. The SIP, which is discussed in more detail in Chapter 26 of the Recommendation Report, whilst intended for the harbour porpoise features on the SNS SAC would inevitably be of benefit to the harbour porpoise population of the North Sea MU reference population as well as other marine mammal species.
- 8.4.56. After careful consideration of the evidence and position of all parties, and the uncertainties around the effects of noise on cetaceans, the ExA is content that the mitigation of effects of noise on marine mammals have been properly considered by the Applicant.

8.5. CONCLUSIONS

- 8.5.1. The ExA considers that the ES, taken together with the additional clarification material submitted during Examination (summarised above), presents an adequate assessment of the potential effects on marine mammals from both the Proposed Development alone and cumulatively with other proposals.
- 8.5.2. The ExA is content that the provisions of NPS EN3 (particularly paragraphs 2.6.94 to 2.6.99) have been satisfied and that all relevant legislative and policy tests for this topic have been met. In arriving at this view, the ExA has taken into account the evidence of the relevant statutory advisors and other IPs with specialist ecological expertise.

- 8.5.3. The ExA considers that the Applicant's approach to marine mammals provides a proportionate approach to the effects on marine mammals appropriately and defines a suitable response to mitigating potential underwater construction noise.
- 8.5.4. The ExA is satisfied that suitable information was provided to the Examination for disturbance and barrier effects upon marine mammals to be assessed. The ExA is persuaded by the Applicant, in conjunction with IPs, that disturbance and barrier effects have been dutifully considered and only result in a minor adverse effect on marine mammal species. The rationale behind the worst-case scenario is sound.
- 8.5.5. The ExA concurs with the position reached by both NE and the Applicant that underwater noise from piling would only result in a minor adverse effect at the seal haul-out site at Blakeney.
- 8.5.6. The ExA considers that a suitable package of mitigation measures has been secured by the end of the Examination, including embedded mitigation such as soft start piling, the requirement for approval of MMMPs and SIPs prior to construction and the ability to stop piling should monitoring indicate that assessed noise thresholds within the Southern North Sea Special Area of Conservation have been exceeded.
- 8.5.7. Mitigation required to be discharged under dDML conditions has been accepted by both the MMO and NE, to which the ExA does not find reason to dispute. In terms of the timescales, the ExA considers the four and six month time periods for discharge of those conditions, as set out clearly [REP8-030, Table 4, ID2], are appropriate in this instance.
- 8.5.8. The ExA is therefore satisfied that the methods of construction for the offshore elements of the Proposed Development have been designed so as to reasonably minimise significant disturbance effects on marine mammals to a minor adverse level.
- 8.5.9. Having regard to the ES and the relevant evidence of all parties to the Examination, it is the ExA's view that there is the potential for minor adverse residual effects on marine mammals as a result of the Proposed Development. These effects relate principally to the disturbance effects of underwater construction noise on harbour porpoise, grey seal, harbour seal and the seal haul-out site at Blakeney Point. This is considered to have minor weight against the case for Development Consent for all development scenarios.

9. SUBTIDAL AND INTERTIDAL ECOLOGY, INCLUDING FISH AND SHELLFISH

9.1. BACKGROUND AND POLICY CONTEXT

9.1.1. Subtidal and intertidal ecology, including fish and shellfish was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on aquatic wildlife including benthic ecology, fish and shellfish. There is also the effects of the installation of cables and foundation types on marine life and habitats, such as on subtidal chalk features.

National Policy Statement (NPS)

9.1.2. The assessment for subtidal and intertidal ecology, including fish and shellfish is set out against the policies in the Overarching National Policy Statement for Energy (NPS EN1) and the National Policy Statement for Renewable Energy Infrastructure (NPS EN3). These National Policy Statements require from the Applicant, amongst other things, to do the following:

- To prepare an Environmental Statement (ES) that sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity. To also provide an assessment of offshore ecology and biodiversity for all stages of the lifespan of the proposed offshore wind farm (NPS EN1, Paragraph 5.3.3 and NPS EN3, Paragraph 2.6.64).
- To show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests (NPS EN1, Paragraph 5.3.4).
- To identify fish species that are the most likely receptors of impacts, with respect to spawning grounds for example (NSP EN3, Paragraph 2.6.74);
- An assessment of the effects on the subtidal environment which should include loss of habitat due to foundation type including associated seabed preparation, predicted scour, scour protection and altered sedimentary processes (NPS EN3, Paragraph 2.6.113).
- An environmental appraisal of cable routes and installation methods, habitat disturbance and loss from cables or vessels, suspended sediment loads, and recovery rates where effects are temporary in the intertidal and subtidal zones (NPS EN3, Paragraphs 2.6.81 and 2.6.113).

9.1.3. In reaching a decision the Secretary of State for Energy Security and Net Zero (SoS) should be satisfied that:

- the development avoids significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives, where significant harm cannot be avoided, then appropriate compensation measures should be sought (NPS EN1, Paragraph 5.3.7);
- the duties in relation to Marine Conservation Zones (MCZ), imposed by sections 125 and 126 of the Marine and Coastal Access Act (MCAA) 2009, will be adhered to, with built-in benefit opportunities and to maximise such opportunities in and around developments (NPS EN1, Paragraph 5.3.12);
- any mitigation measures have been agreed with Natural England (NE) or the Marine Management Organisation (MMO), and whether either NE or MMO has granted or refused, or intends to grant or refuse, any relevant licences [NSP EN1, Paragraph 5.3.20];

- once operational, the Electro-Magnetic Field (EMF) impacts are unlikely to create a barrier to fish movement (NPS EN3, Paragraph 2.6.75);
- that cable installation and decommissioning has been designed sensitively taking into account intertidal habitat (NPS EN3, Paragraph 2.6.85);
- that offshore cables are armoured and buried to a sufficient depth to minimise heat effects (NPS EN3, Paragraph 2.6.87);
- that activities have been designed taking into account sensitive subtidal environmental aspects (NPS EN3, Paragraph 2.6.116); and
- it is apparent whether the effects are temporary or reversible [NPS EN3, Paragraphs 2.6.86 and 2.6.117].

9.1.4. The NPS for Electricity Networks Infrastructure (NPS EN5) is also relevant, such as at Sections 2.6 (Impacts of Electrical Networks) and 2.7 (Biodiversity and Geological Conservation).

Other Legislation and Policies

9.1.5. Other legislation, policies and guidance relevant to the subtidal and intertidal ecology, including fish and shellfish includes:

- 4) The Marine Policy Statement (MPS) (HM Government, 2011).
- 5) East Inshore and The East Offshore Marine Plans (HM Government, 2014).
- 6) The Marine Strategy Framework Directive.
- 7) Water Framework Directive (WFD).

9.1.6. Other legislation, policies and guidance relevant to the Proposed Development are also set out in the ES [APP-094, Section 8.4.1.2] [APP-095, Section 9.4.1.2], such as NEs Approach to Offshore Wind (Technical Information Note TIN181) and Guidelines for data acquisition to support marine environmental assessments of offshore renewable energy projects (Centre for Environment, Fisheries and Aquaculture Science (Cefas) 2012). Other relevant legislation, policies and guidance are set out in Chapter 3 of this Recommendation Report.

9.1.7. The National Planning Policy Framework 2021 (NPPF) is a relevant consideration for Nationally Significant Infrastructure Projects (NSIP) development proposals in respect of biodiversity in particular Chapter 15 (Conserving and enhancing the natural environment).

9.1.8. The recently re-issued NPPF of September 2023 came into effect after the Examination had closed. This Recommendation Report therefore refers and relies on the previous version for its planning considerations, where relevant. However, the SoS should be aware that there were no material changes to the NPPF that were important or relevant for the consideration of this current development consent application.

9.2. THE APPLICATION

Environmental Statement

9.2.1. The Applicant's assessment of the subtidal and intertidal ecology, including fish and shellfish is set out in the ES in Chapter 8 – Benthic Ecology [APP-094 and APP-121] and Chapter 9 – Fish and Shellfish [APP-095 and APP-122]. Other application documents that are relevant include the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and the Dudgeon Offshore Wind Farm Extension Project (DEP) Benthic Characterisation Reports [APP-184 and APP-185], the SEP and DEP Benthic Habitat Reports [APP-186 and APP-187], DEP and SEP Benthic Habitat Mapping [APP-188], MarESA Biotope Sensitivities [APP-189], and the Fish and Shellfish Ecology Technical Report [APP-190].

Scope and Methodology

- 9.2.2. For benthic ecology assessment, the Applicant defined the Study Area as extent of area where there are potential effects on benthic receptors. The Applicant had included the offshore footprint of SEP and DEP infrastructure and construction, maintenance and decommissioning activities, such as the wind farm sites and offshore cable corridors. However, to address indirect impacts, through sediment deposition for example, the Applicant has used a wider study area [APP-094]. In terms of data sources for the assessment of benthic ecology there has been geophysical surveys undertaken by the Applicant which in turn informed the design of the subsequent benthic characterisation survey [Table 8-6, APP-094]. This was used by the Applicant to assess the benthic communities and potentially sensitive habitats, such as Annex I habitats of the Habitats Directive, with the methodology for the benthic characterisation survey and subsequent data analysis agreed with NE and the MMO [APP-094, Section 8.4.2.2]. Benthic habitat mapping was also produced from the data by the Applicant [APP-094, Section 8.4.2.3]. Other sources of information from the Applicant included data from the existing Sheringham Shoal Offshore Wind Farm (SOW) and Dudgeon Offshore Windfarm (DOW) projects and also from the Marine Life Information Network, which includes evidence-based sensitivity assessments.
- 9.2.3. The Applicant consulted in a regular and formalised manner with members of Expert Topic Groups (ETGs), which were established to follow the majority of topics covered by the ES. The ETGs comprised experts from relevant statutory and non-statutory bodies and one of their primary functions was to agree the relevance, appropriateness and sufficiency of baseline data for the more specific assessments which are detailed within the ES.
- 9.2.4. For the assessment of fish and shellfish effects the ES set a Study Area located within International Council for the Exploration of the Seas (ICES) rectangles 35F1 and 34F1 (the local study area) and also ICES rectangles 34F0 and 35F0 for the regional area. Data sources are set out in Table 9-5 of the ES. Historic fish surveys at the SOW and DOW have been used by the Applicant, which includes MMO landings data [APP-095].
- 9.2.5. The ETG members for the topic areas identified by the Applicant are set out in its Consultation Report [APP-029]. Study areas and baseline environments and assessment methodology relating to fish and shellfish and benthic ecology were agreed in the final Statement of Common Ground (SoCGs) with MMO [REP8-030].
- 9.2.6. Natural England (NE) did not agree within the SoCG [REP8-042] with the assessment methodology for all these subjects. For the ES Chapters [APP-094] covering Benthic Ecology, the SoCG showed that where there were disagreements this was considered to have no material impact and NE does not consider this would result in material impacts to the assessment conclusions. The matter is considered to be closed for the purposes of the SoCG. However, in relation to the Stage 1 Cromer Shoals Chalk Beds Marine Conservation Zone Assessment NE maintained a disagreement with the methodology. NE stated that this was in relation to defining the magnitude of impacts because the assessment has been approached from an EIA perspective rather than one considering whether or not the conservation objectives for the site would be hindered. Whilst the conservation objectives are mentioned in the MCZ assessment, NE considered that there was no in-depth assessment against each of the feature targets [REP8-042].
- 9.2.7. The Applicant has set out that potential impacts to benthic ecology (for both the intertidal and subtidal areas) include:

- temporary habitat loss or physical disturbance;
- temporary increases in suspended sediment concentrations and deposition;
- re-mobilisation of contaminated sediments;
- the introduction of invasive non-native species (INNS);
- permanent habitat loss;
- long term habitat loss in the MCZ;
- colonisation of foundations and cable protection;
- underwater noise and vibration; and
- potential impacts to sites of marine conservation importance.

9.2.8. These are assessed against what is considered worst-case scenarios, based on the potential scenarios for the Proposed Development. As set out by the Applicant in the ES Table 8-2 [APP-094], the worst-case scenario for benthic ecology impacts varies depending on the impact. This assessment is made for each phase of the Proposed Development, being the construction, operational and decommissioning phases.

9.2.9. In the Applicant's assessment of the effects of the Proposed Development to fish and shellfish, this includes much the same as the impacts assessed for benthic ecology, although includes also underwater noise impacts during foundation piling or from Unexploded Ordnance (UXO) clearance. Impacts on commercially exploited species associated with displacement of fishing from the area of activity/ works, the potential impacts from wind turbine foundations, scour protection and hard substrate, and the potential impact from EMF. These impacts are assessed against what is considered worst-case scenarios, based on the potential scenarios for the Proposed Development. As set out by the Applicant in ES Table 9-2 [APP-095], the worst-case scenario for fish and shellfish impacts varies, depending on the impact. Like with benthic ecology, an assessment is made for each phase of the Proposed Development, being the construction, operational and decommissioning phases.

9.2.10. The conclusions of this chapter are based on the potential worst-case scenarios.

9.2.11. A cumulative effects assessment has been undertaken for both the ES Chapters on Benthic Ecology and for Fish and Shellfish. This considered other plans, projects and activities that may impact cumulatively with the Proposed Development. As part of this process, the assessment considers which of the residual impacts assessed from the Proposed Development have the potential to contribute to a cumulative impact. This has been taken into consideration by the ExA in reaching its conclusions.

Applicant's Assessment of Effects and Proposed Mitigation

9.2.12. The Applicant's proposed embedded mitigation that is common across the Proposed Development is summarised in the ES Chapter 8 for benthic ecology [APP-094, Table 8-3]. This includes the following:

- to aim to reduce the number of turbines by using larger turbines instead;
- to use horizontal direct drilling (HDD) to install export cables at landfall, to avoid direct impacts to the intertidal zone;
- to have a preference for piled foundations to minimize the release of sub-surface sediment;
- to use micro-siting to minimize seabed preparation;
- to make reasonable endeavours to bury offshore cables, minimising the requirement for external cable protection measures and thus minimising habitat loss impacts on benthic ecology receptors, including within the MCZ;
- to replace seabed material arising during cable installation, from the HDD exit pit, back within the MCZ at or close to the source; and
- to use best practice measures to minimize the potential spread of INNS.

- 9.2.13. Additional mitigation includes the use of removable cable protection in the MCZ, with a commitment to remove with the decommissioning works. There is also additional mitigation through pre-construction surveys that would be undertaken to determine if potential Annex I / United Kingdom Biodiversity Action Plan (UK BAP) Priority Habitats are present within the proposed wind turbine locations or offshore cable routes [APP-094, Table 8-4].
- 9.2.14. For mitigation against impacts to fish and/or shellfish, embedded mitigation that is common across the Proposed Development is summarised in the ES Chapter 9 for benthic ecology [APP-095, Table 9-3]. This includes the following:
- to make all reasonable endeavours to bury offshore export cables, reducing the effects of EMF and also reducing the need for surface cable protection;
 - for construction works to be up to 24 hours a day, to reduce the overall period of time of construction, so that there would be less noise impacts to fish communities; and
 - to start each piling event with a slow-start with lower hammer energy, followed by a gradual ramp-up of energy.
- 9.2.15. No additional mitigation is proposed for fish and shellfish receptors.
- 9.2.16. Embedded and additional mitigation are secured through the draft Development Consent Order (dDCO) [REP8-005] Requirements and draft Deemed Marine Licence (dDML) Conditions. This includes as dDCO Requirement 2 (R2) Wind turbine generator dimensions and R8 Offshore Decommissioning. There are also dDML Conditions. These requirements and conditions secure such mitigation as such as the need for a construction method statement with cable laying plan and a mitigation scheme for any benthic habitats of conservation, ecological and/or economic importance (both within Condition 13 of Schedule 10 and 11, and Condition 12 of Schedules 12 and 13).
- 9.2.17. Embedded mitigation within the subtidal and intertidal zones and for fish and shellfish is also secured through the Project Environmental Management Plan (PEMP) (in accordance with the Outline PEMP [REP7-035] and the Outline Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) Cable Specification, Installation and Monitoring Plan (CSIMP), [REP7-031] both of which are also secured through dDML Condition 13 of Schedule 10 and 11, and Condition 12 of Schedules 12 and 13.
- 9.2.18. The Applicant's conclusion in the ES is that the adverse effects of the Proposed Development on benthic ecology [APP-094, Table 8-27] would be no more than moderate adverse impact or less before consideration of mitigation. The moderate impacts were related to potential loss of Annex I and UK BAP priority habitats which have the potential to be present in the benthic ecology study area. However, with mitigation in the form of micro-siting proposed, the residual effect is for no impact. For all residual and cumulative impacts, there is not anticipated to be more than minor adverse impacts after mitigation.
- 9.2.19. For fish and shellfish, the ES states that the effects of the Proposed Development would be no more than minor adverse impact or less, including when considering cumulatively [APP-095, Table 9-34].

LOCAL IMPACT REPORTS

- 9.2.20. There are no substantive comments relating to offshore ecology in any of the submitted Local Impact Reports.

THE EXAMINATION

In order to take a proportionate approach, the ExA sees no significant benefit in providing a detailed analysis of all those matters that were not agreed at the start of the Examination, but which have now been agreed with Interested Parties (IPs). The majority of these can be tracked in NE's Risks and Issues Log submissions, the latest of which can be found at [REP8-107]. Furthermore, the ExA is satisfied that these matters have now been resolved to an acceptable standard either through the provision of the additional information or, in a few instances, through the provision of requirements in the rDCO or conditions in the rDMLs. The ExA has focussed on what it considered to be the main issues that have not been agreed at the close of Examination, but the NE's Risks and Issue Log provides information on all the matters or issues NE has raised [REP8-107].

9.2.21. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:

- 1) The effects of the Proposed Development on the MCZ.
- 2) The effects of the Proposed Development on sensitive habitats and species.
- 3) Effects of the proposed cables on fish, shellfish and other maritime species through EMF.
- 4) Effects of the construction phase on fish, shellfish and other maritime species through noise.

The effects of the Proposed Development on the MCZ

9.2.22. The MCAA 2009 introduced the production of marine plans and designation of MCZ in UK waters. The nearshore section of the cable export corridor would pass through the Cromer Shoal Chalk Beds (CSCB) MCZ. The CSCB MCZ site covers an area of approximately 315.64 kilometres squared (km²) and lies approximately 200 metres (m) from the coastal low water mark and extends up to 10km out to sea.

9.2.23. The Applicant's assessment conclusions are within the Stage 1 Cromer Shoal Chalk Beds Marine Conservation Zone Assessment [REP7-023]. This Stage 1 Assessment considered the relevant broadscale habitats, habitat Features of Conservation Interest (FOCI) and features of geological interest. This Assessment concluded that the conservation objective of maintaining the protected features of the MCZ in a favourable condition or restoring them to favourable condition would not be hindered by the construction, operation and decommissioning phases of SEP or DEP in-isolation, SEP and DEP together, or cumulatively with any other plan, project or activity.

9.2.24. As an overview, NE consider that if cable protection removal could be achieved at decommissioning, then whilst the impacts would no longer be permanent, they would still last for the lifetime of the infrastructure (40 years) and potentially longer as a residual impact. Therefore, because this impact is lasting/long term and site recovery would not be assured, NE's view is that reasonable scientific doubt would likely remain regarding the impact of the proposals on the conservation objectives for the site. NE did not agree with the Applicant's conclusion that there would be no significant risk of the activity hindering the achievement of the conservation objectives for CSCB MCZ [RR-063].

9.2.25. In terms of cumulative effects, NE considers the Operational phase activities for DEP and/or SEP, combined with other existing infrastructure in the MCZ, would result in lasting habitat change/physical disturbance, which would further hinder the conservation objectives of the CSCB MCZ [RR-063].

9.2.26. NE also criticised the Applicant's Stage One MCZ assessment in relation to defining the magnitude of impacts. This is because EA thought that the assessment has been

approached from an Environmental Impact Assessment perspective, rather than considering whether or not the conservation objectives for the site would be hindered [RR-063].

- 9.2.27. NE did not agree with the conclusions of the Stage 1 Assessment [REP7-023], due to the issues set out in this section. However, more specifically, the main elements of NE's concerns relate to the effects of the Proposed Development on chalk features and also the potential impact from the proposed cables, particularly if cable protection is to be needed in the areas of mixed sediment [RR-063]. Subtidal Mixed Sediments and Subtidal Chalk are both designated features of this MCZ.

Chalk Features

- 9.2.28. The Applicant states that the known locations of subtidal chalk are restricted to the outcropping subtidal rock features in the inshore area of the MCZ [APP-182]. Embedded mitigation in the form of a long HDD to install cables at landfall has been included by the Applicant, with the HDD exit point offshore being approximately 1000m from the coast. The Applicant states that this would reduce the extent of seabed impacts to the MCZ generally and also completely avoid direct impacts on subtidal chalk features that are close to the shore [APP-094]. On this point, NE agreed with the assessment conclusion that the nearshore area of outcropping chalk would be avoided through the use of HDD at landfall [RR-063].
- 9.2.29. NE did not, however, agree with the Applicant's assessment that CSCB MCZ Subtidal Chalk FOCI as being restricted to the areas identified by the geophysical survey [RR-063]. NE stated that across much of the site there are areas of subtidal chalk lying underneath a thin veneer of sand/sediment, known as subcropping chalk. NE advised that chalk with sediment veneer should be considered as a subtidal chalk feature (Habitat of Conservation Interest 20) when assessing impacts. NE provided more detail in response to ExA's written question Q2.3.2.2 [PD-012], with NE explaining that chalk is a rare habitat which once impacted is unable to be restored [REP3-147]. As sub-cropping chalk has the potential to become outcropping, NE advised the conservation objectives of both outcropping and subcropping chalk are of equal value. Furthermore, NE also stated that if the Applicant can install cabling within the sediment veneer without impacting the subcropping chalk and the use of cable protection, then NE's concerns in relation to impacts to chalk have been addressed. However, NE also stated that if cable protection is required this would remain a concern as the structure and function of any future chalk exposures are likely to be hindered [REP3-147].
- 9.2.30. NE also advised against the HDD exit pits being located in an area of subcropping chalk, due to the potential impacts to this chalk through the necessary excavation works [RR-063].
- 9.2.31. In response to ExA's written question on the issue of cable installation in the veneer above chalk [PD-017, Q3.3.2.1] the Applicant on this matter stated that cables could be installed within sediment veneer without impacting sub-cropping chalk [REP5-049]. The intention of the Applicant would be to maximise the chance of successful cable burial and therefore minimising the likelihood of needing to use external cable protection. However, the Applicant was unable to confirm that the cable installation would not impact the subcropping chalk. This is because the precise depth at which the sub-cropping chalk exists is difficult to predict to the accuracy required along the entire length of the cable route, and the difficulty of determining the thickness of the lag (sediment veneer). Avoidance of chalk, according to the Applicant, would be done by such methods as interpretation of the geotechnical data and pre-construction route engineering, and reconsideration of the preferred cable burial tool based on the latest information during pre-construction [REP5-049].

- 9.2.32. The ExA asked NE [PD-021, Q4.3.2.2] whether NE would have any objections remaining at the end of Examination if the Applicant could not confirm avoidance of sub-cropping chalk. NE's advice was that the SoS would need to make a risk-based decision on the acceptability of the potential impacts to designated site features. NE's advice continued to be for the installation of cables within the sediment veneer only, and not impact sub-cropping chalk [REP7-112].
- 9.2.33. Notwithstanding the commitment by the Applicant to avoid and/or minimise the potential for interaction with sub-cropping chalk, the Applicant describes sub-cropping chalk in the ES [APP-182] as chalk which is eroded to a relatively smooth surface and is generally covered by a thin layer of coarse sediment (lag) along this part of the MCZ. The Applicant's view is that it is in no way similar to the complex erosional geo-structures of exposed chalk [REP1-033]. This view from the Applicant did not change through the Examination, with the Applicant stating that subcropping chalk cannot be considered to be of equal value to outcropping chalk in terms of the conservation objectives. The Applicant states that for chalk with sediment veneer to be considered as a subtidal chalk feature in the manner suggested by NE is a bare assertion without any reasoning or supporting evidence [REP8-061].
- 9.2.34. This was not agreed by NE in the SoCG [REP8-042]. NE advised the need for monitoring of the shallow veneer of sediment overlying subtidal chalk and the requirement to implement adaptive management measures should monitoring demonstrate impacts are greater than predicted or unforeseen [REP8-042].
- 9.2.35. With regard to the HDD exit pit in response to ExAs written question Q2.3.2 [PD-012] the Applicant provided details that the HDD exit would be located within the deep infilled channel cut through the chalk to 17m below the seabed, filled with Weybourne Channel deposits [REP3-101]. The Applicant stated that given the depth of overlying sediment deposits there is no potential for exposure of chalk in this area. NE were requested to respond on this information by the ExA with Written Question Q3.3.2 [PD-017], to which NE replied that on the basis of the Applicant's clarification in [REP3-107] it is satisfied that the cable installation works at the HDD exit point would not adversely impact the sub-cropping or out-cropping chalk [REP5-094].

ExA Reasoning

- 9.2.36. On the issue of the chalk features, the ExA recognises that the majority of outcropping chalk features are near the shoreline and the HDD method for bringing the cables to landfall would allow impacts to be avoided to this important MCZ feature. Furthermore, the location of the HDD exit pit as proposed, being within Weybourne Channel, would avoid impacts on outcropping and sub-cropping chalk. This is therefore considered by the ExA as an appropriate location for the offshore HDD exit. If there are remaining outcrops of chalk within the MCZ within the cable corridor, then the ExA is satisfied that the pre-construction offshore surveys and the commitment to micro-siting should enable the avoidance of impacts to such features.
- 9.2.37. There remained the disagreement between the Applicant and NE about the value of sub-cropping chalk to the MCZ. NE considered subcropping chalk with a thin veneer of sediment to have the same value as outcropping chalk. However, NE made clear that if the Applicant could install cabling within the sediment veneer without impacting the subcropping chalk and without the use of cable protection, then NE's concerns in relation to impacts to chalk would have been addressed. It is accepted by ExA that the Applicant would seek to avoid subcropping chalk and instead try to bury the cable in the veneer of sediment if deep enough. These commitments are made through the Outline CSIMP [REP7-031]. However, ExA also acknowledge that the Applicant is unable to confirm that the cable installation would not impact the subcropping chalk in any way.

- 9.2.38. It is ExA's view that it is unlikely that there would be significant adverse impacts to subcropping chalk, even if the Applicant cannot confirm there would be no impact. Furthermore, the designated feature of subtidal chalk is of significance because of the reef habitat the outcrops provide. Whilst it may be that over time the subcropping chalk becomes exposed and outcropped, if this has not occurred at the time of construction then the ExA is not satisfied from the evidence that it has the same value as outcropping chalk as it is not a reef habitat.
- 9.2.39. On the matter of chalk impacts within the MCZ, the ExA considers that any impact would be minor and should be avoidable given the commitments to micro-siting of cables and the use of HDD at landfall. Within the Outline CSIMP [REP7-031], there is the commitment to make reasonable endeavours to bury offshore cables and for micro-siting the export cables within the corridor where necessary in order to avoid areas that are considered to pose a challenge to successful burial and therefore being at a higher risk of requiring remedial works such as external cable protection. This could include areas where there is more chalk identified. The ExA also notes that the proposed layout of all cables and a detailed cable laying plan (incorporating a burial risk assessment) must be agreed with the MMO prior to any commencement of development, as required by Condition 13 of Schedule 10 and 11, and Condition 12 of Schedule 12 and 13.
- 9.2.40. The mitigation proposed is adequate and there is nothing further needed within the rDCO or relevant management plans.

Cable Protection

- 9.2.41. Of particular concern to NE is the area of mixed sediment within the cable corridor, which has a more diverse community. NE states in its Relevant Representation (RR) that should cable protection be placed in this location then the conservation objectives to restore/maintain features would not be achieved [RR-063]. NE advised that the placement of cable protection with designated sites constitutes a lasting generation impact over the lifetime of the Proposed Development, which is potentially irreversible [RR-063].
- 9.2.42. When asked by ExA about cable protection effects [PD-017, Q2.3.4.1] NE stated that there is a high likelihood of cable protection being needed within mixed sediment areas [REP3-147]. NE welcomed the consideration of removal of cable protection at the time of decommissioning. However, it was NE's view that if cable protection removal could be achieved, impacts would still last for the lifetime of the Proposed Development (40 years) and potentially longer as a residual impact. Therefore, because this impact is lasting/long term and site recovery would not be assured, NE's view is that reasonable scientific doubt would likely remain regarding the impact of the proposals on the conservation objectives for the site [RR-063].
- 9.2.43. NE also required [RR-063] that at pre-consent the Applicant should undertake a cable burial risk assessment using geotech data to focus cable protection requirements to areas where cables are likely to be sub-optimally buried. However, the Applicant stated that it undertook a geotechnical survey in 2021 to help inform the cable burial and protection requirements. The Applicant also considered that it had provided very detailed information at the consenting stage to assist in dealing with these matters. The Applicant went on to state that it is its view that the information and documents presented at pre-consent stage would be updated pre-construction, as is the routine and accepted approach [REP3-101].
- 9.2.44. The Applicant confirmed that it would make reasonable endeavours to bury offshore export cables and thus minimise the requirement for external cable protection within the MCZ [APP-094]. The Applicant has also committed to removal of any external

cable protection in the MCZ at decommissioning, where it is required. Furthermore, the Applicant has committed to no use of loose rock systems for cable protection [APP-094]. These commitments are made through the Outline CSIMP [REP7-031].

- 9.2.45. The Applicant did accept that long term habitat loss would occur within the MCZ during the operational phase where external export cable protection is required in locations where an adequate degree of protection has not been achieved from the burial process, and at the HDD exit pit transition zone. However, the Applicant also stated that removal at the decommissioning stage would avoid permanent impacts to MCZ benthic habitats [APP-077]. Therefore, the Applicant was of the view that the habitat loss due to cable protection would be long term/lasting for the duration of the operational phase (40 years), rather than permanent. Furthermore, the Applicant points out that the worst-case extent of cable protection would be a maximum area of seabed within the MCZ lost due to cable protection that would equate to approximately 0.0006% of the whole MCZ if SEP and DEP are both built, or approximately 0.0003% for either SEP or DEP [REP3-112].
- 9.2.46. The Applicant disagreed that there is a high likelihood of cable protection being used within mixed sediment areas and is unsure what evidence NE has based this position on. The Applicant points to the fact that the use of external cable protection was able to be avoided in the case of the existing SOW and DOW (except at the HDD exit pit for DOW), both of which also route through mixed sediment areas [REP5-049].
- 9.2.47. NE's primary concern remained through the Examination, being that of cable protection and lasting habitat change/loss. NE also advised throughout the Examination that impacts considered as a percentage of the whole MCZ is misleading given the size of the site. NE stated that the impacts from SEP and DEP combined are still 0.19ha from cable protection [RR-063] [REP8-107].
- 9.2.48. NE stated that its advice in relation to lasting habitat change/loss, as set out in the RR [RR-063], remained unchanged at the close of Examination. Of particular concern is the area of mixed sediment within the cable corridor, which has a more diverse community. Should cable protection be placed in this location then NE advises the conservation objectives to restore/maintain features would not be achieved. In response to the ExA's Written Question [PD-012, Q2.3.4.10] NE also considered that the Applicant still failed to acknowledge the fact the MCZ conservation objectives are already being hindered by other plans/projects, such as from the placement of offshore wind farm cable protection and oil and gas pipelines protection [REP3-147]. NE view at the close of Examination was that the Proposed Development could result in further significant adverse impacts on the MCZ [REP8-105].
- 9.2.49. NE stated that unless it can be secured within the DCO that the cables can be installed without the requirement for physical external cable protection, the advice is that significant impact may occur and therefore there is a requirement for Measures of Equivalent Environmental Benefit (MEEB) [REP3-147]. NE also strongly advised that plans/projects which have the potential to significantly impact the MCZ interest features, would need to intensify the use of the mitigation hierarchy through all development phases to avoid, reduce and mitigate the impacts to a level where such effects cannot arise. Should mitigation measures not fully address the significant impacts then MEEB will be required [REP8-105].
- 9.2.50. At the close of Examination, the Applicant reaffirmed its position that the proportion of the site that could be impacted would be very small and that loss to the extent and distribution of the features would be long-term but temporary. The Applicant considers that the SoS can conclude that the conservation objective of maintaining

the protected features of the CSCB MCZ in a favourable condition, or to restore them to a favourable condition, would not be hindered by SEP and DEP [REP8-062].

- 9.2.51. The Applicant is also of the view that when considered cumulatively, with other infrastructure existing within the MCZ such as Hornsea Project Three Offshore Wind Farm, the spatial extent of this potential habitat loss remains very small in the context of the total MCZ area [REP8-062].

ExA Reasoning

- 9.2.52. With regards to cable protection, it is noted that the development of the existing SOW and DOW managed to avoid the use of cable protection even through mixed sediment areas. Although, some cable protection was used at the HDD exit pit. ExA accepts that it cannot be ascertained at this pre-consent stage whether cable protection would be required. However, there is a risk that cable protection would be required if burial to sufficient depths was not manageable, with the Applicant allowing for cable protection within the MCZ if necessary.

- 9.2.53. If cable protection was needed within the MCZ then the ExA considers that this would likely be in place for the duration of the Proposed Development, potentially 40 years. Even with the commitment to remove cable protection within the MCZ at decommissioning stage, the long-term or potentially permanent change in the seabed from the cable protection would likely have a significant adverse impact on its physical structure and associated biological communities. The ExA agrees with NE that, because the potential impact of cable protection is lasting/long term, site recovery would not be assured. There would be reasonable scientific doubt remaining regarding the impact of the proposals on the conservation objectives for the MCZ [REP8-107].

Measures of Equivalent Environmental Benefit (MEEB) - type and location

- 9.2.54. The Applicant's position remained through the Examination that, as set out in the Stage 1 MCZ Assessment [REP7-023], that there would be no significant risk of hindering the conservation objectives of the CSCB MCZ. However, the Applicant also submitted an In-Principle MEEB Plan to support the Stage 2 MCZ Assessment [REP2-020].
- 9.2.55. The circumstances of when a MEEB is required is set out in Section 126(7) of the MCAA 2009. The planting of a native oyster bed within the CSCB MCZ would be progressed as the primary MEEB, if the SoS is unable to reach a conclusion of no significant risk of SEP and/or DEP hindering the conservation objectives of the MCZ (either alone or in-combination). The In-Principle MEEB Plan has been submitted with the application to demonstrate the feasibility of potential measures [REP2-020]. However, the Applicant has stated that in the unlikely event that development of an oyster bed within the CSCB MCZ is deemed to be unsuccessful, adaptive management or alternative MEEB can be undertaken in a timely manner [REP8-062].
- 9.2.56. The Applicant sets out that the measures in the In-Principle MEEB Plan, included the deployment and maintenance of an oyster bed of 10,000m² with an average density of 5 live oysters per m². The Applicant sets out that the MEEB would offer a long-term enhanced ecological function to the habitat being lost and would partially restore a historic feature of the region. Furthermore, the Applicant states that this scale of restoration effort has also been selected because once fully functioning, it is expected that the native oyster bed would become self-sustaining [REP2-020].
- 9.2.57. It is NE's preference for the MEEB to be located in the MCZ [REP1-139]. However, in NE's RR [RR-063] it advises against the placement of clutch and restoration of an

oyster bed in the middle of a mixed sediment area. NE explained that this was due to the importance of the existing mixed sediment within the MCZ, which has several sub features to that of the generic habitat type.

- 9.2.58. The Applicant responded [REP2-020] with analysis and an area for a potential oyster bed was identified. The Applicant stated that this area is composed of sublittoral mixed sediment, and that it is not only suitable for native oyster settlement, but it also avoids the chalk bed feature of the CSCB MCZ. NE supported the changes to address its concerns in relation to the location of the proposed oyster bed [REP3-146].
- 9.2.59. There were also concerns relating to the MEEB preference and its location from the Norfolk Wildlife Trust (NWT) [RR-068]. NWT stated that there was concern that the preferred option, provision of new oyster beds, would not provide equivalent ecological function to the features of the MCZ that would be lost or damaged. The NWT stated that this would not provide either the same ecological function as subtidal coarse sediment, subtidal mixed sediments and subtidal sand or provide functions and properties that are comparable to those that originally justified designation [RR-068].
- 9.2.60. The Applicant, in further response to the comments from the NWT, stated that the Department for Environment, Food and Rural Affairs (Defra) guidance acknowledges that it would not always be possible to deliver compensatory measures on a like-for-like basis. Furthermore, the Applicant states that it has undertaken an assessment [REP1-010] of the potential risk of planting of native oyster beds hindering the conservation objectives of the existing features of the CSCB MCZ and concludes that it would not [REP8-112]. On this matter, NE stated that the MEEB requirement is to provide a reef like community similar to that of a mixed sediment environment [REP5-094].
- 9.2.61. NWT's concerns remained at the close of Examination. NWT stated in the SoCG with the Applicant [REP8-112] that whilst native oyster beds may be a historic feature of the area, it is not a designated feature of the MCZ. The loss of part of the MCZ would mean that the MCZ network is diminished. The NWT welcomed the recreation of habitats such as native oyster beds, but not at the expense of part of the MCZ network [REP8-112].
- 9.2.62. In the Final SoCG [REP8-042] between NE and the Applicant, NE agreed that the MEEB oyster bed plan had merit and if successfully delivered would compensate for the long-term loss of habitat from the installation of external cable protection across an area of subtidal sediments. NE also agreed that the proposed MEEB oyster bed would partially restore a historic feature of the CSCB MCZ and wider region.

Securing the MEEB

- 9.2.63. To secure the MEEB, if the SoS decides it is necessary, the Applicant has submitted Proposed Without Prejudice DCO Drafting [REP8-008]. This sets out that the licenced activities may not be commenced until a plan for the work of the MEEB steering group has been submitted to and approved by the SoS. It is the MEEB steering group who would shape and inform the scope and delivery of the MEEB implementation and monitoring plan (MIMP). The dDCO drafting also states that following consultation with the MEEB steering group the MIMP must be submitted to the SoS for approval in consultation with the MMO and the relevant statutory nature conservation bodies. The MIMP would include details of the native oyster bed proposed as the MEEB, amongst other things. The DCO drafting states that no external cable protection works may be commenced within the CSCB MCZ until the MIMP has been approved by the SoS.

- 9.2.64. As drafted by the Applicant, under Part 4 of the Without Prejudice DCO Drafting, section 33, it currently states the following:
- “(33) No external cable protection works may be commenced within the Cromer Shoal Chalk Beds MCZ until the MIMP has been approved by the Secretary of State.”*
- 9.2.65. Within Appendix G of [RR-063], NE recognised the time required for ecological functionality to occur and therefore would advise the implementation of oyster restoration prior to the cable installation but reflected that it may not be fully delivered before any impacts to the MCZ. Furthermore, in response to ExA’s questions regarding the MEEB and the dDCO [PD-021, Q4.3.4.2] NE notes that the condition as written does not require the MEEB to be deployed prior to any cable protection works. NE consider that the condition should require that the MEEB should be in place prior to any impact [REP7-112].
- 9.2.66. In response the Applicant stated, that in the event the SoS concludes that MEEB is required, this would be on the basis of there being potential for external cable protection being installed within the MCZ. If during the pre-construction phase it was determined that no external cable protection for Proposed Development was required to be installed within the MCZ, then the requirement to deliver MEEB would fall away. There would be no impact from cable installation that would hinder the conservation objectives of the MCZ from being achieved. The MEEB therefore does not need to be in place before external cable protection is installed, or even shortly after, to achieve its intended purpose [REP8-062].
- 9.2.67. The Applicant considers that the proposed timescale strikes an appropriate balance of ensuring that SEP and DEP can be delivered in a timely manner, delivering urgently needed renewable energy development as quickly as possible, whilst ensuring that MEEB would be implemented such that the potential adverse effects would be offset [REP8-062]. This matter remained unresolved at the end of the Examination.

ExA’s Reasoning on MEEB requirement

- 9.2.68. As expressed by NE [REP8-105], the site conservation objectives are already being hindered by other plans/projects. Such infrastructure within the MCZ may, in combination, cover a very small area of this designated site, but nonetheless any cable protection for SEP and DEP would mean that CSCB MCZ features would be taken further away from meeting the sites conservation objectives.
- 9.2.69. ExA considers that if there was to be cable protection used within the MCZ this would be contrary to the conservation objectives of this site and thus pose a significant risk of hinderance, which conflicts with Section (s) 126(6) of the MCAA. Consequently, the requirements of s126(7) are engaged and the ExA recommends that a Stage 2 assessment is necessary prior to any consent being granted.
- 9.2.70. S126(7) requires that in these circumstances the SoS is satisfied that:
- 1) there is no other means of proceeding with the act which would create a substantially lower risk of hindering the achievement of those objectives;
 - 2) the benefit to the public of proceeding with the act clearly outweighs the risk of damage to the environment that will be created by proceeding with it; and
 - 3) the person seeking the authorisation will undertake, or make arrangements for the undertaking of, measures of equivalent environmental benefit to the damage which the act will or is likely to have in or on the MCZ.

- 9.2.71. In response to (a), it is the ExA's view that there are no other means of running cables through the MCZ. This is the shortest distance to landfall. Furthermore, it is the preference of the Applicant to bury the cables, without impacting chalk features or requiring cable protection. However, the use of cable protection cannot be discounted. Due to physical constraints and grid connection NE notes that impacts to a designated site are unavoidable [RR-063].
- 9.2.72. In response to (b) the ExA concludes that the benefit to the public of proceeding with the act clearly outweighs the potential level and extent of damage to the environment from cable protection because of the national need for this infrastructure as set out in NPS EN1 and NPS EN3.
- 9.2.73. Finally, in response to (c), ExA considers that the Applicant has provided a without prejudice MEEB proposal which has been largely supported by NE in its preference for an oyster bed restoration project within the MCZ. It is the ExA's recommendation to the SoS that such a MEEB is necessary to compensate appropriately for the damage cable protection would result in, within the MCZ, if indeed cable protection is ultimately necessary.
- 9.2.74. The ExA recommends to the SoS that the tests under s126(7) of the MCAA are met.
- 9.2.75. With regards the timing of the MEEB as set out by the Applicant, it is the ExAs consideration that the MIMP should be approved by the SoS prior to any laying of cables within the MCZ, rather than before any cable protection is used (as it is currently drafted). This should allow for more time between agreeing the MIMP and any potential cable protection being used, which could be used for the initial stages of the oyster bed development. The MIMP should include a timetable for delivery of the MEEB and all this can be agreed, prior to any harm caused by any cable protection. The ExA also notes that development of a native oyster bed would take time, but it would be unreasonable to expect a full self-sufficient oyster bed to be developed before it could be determined if any cable protection would in fact be needed. This could, if it was necessary, result in a lengthy delay to the Proposed Development being constructed.
- 9.2.76. It is therefore the ExA's view that Part 4 of the Without Prejudice DCO Drafting, section 33, should be amended to the following:
- "(33) No laying of any cables or cable protection works may be commenced within the Cromer Shoal Chalk Beds MCZ until the MIMP has been approved by the Secretary of State."**
- 9.2.77. If the SoS was minded to agree with the ExA and impose the amendment cited above into the dDMLs, it is recommended that NE, the MMO and the Applicant should be consulted on the wording of the amendment, this having been considered necessary after the close of the Examination.
- 9.2.78. If cable protection was required, subject to the changes in the rDCO, the ExA is satisfied that the Applicant's proposals would deliver appropriate MEEB.
- 9.2.79. In terms of mitigation, some of this is secured through being embedded in the project design, such as the use of HDD to install the export cables at the landfall; the use of appropriate cable installation methodologies can help to ensure that impacts from cable installation are short term and reversible; and that the allowance for external cable protection within the MCZ boundary has been minimised as far as possible [REP8-021].

- 9.2.80. Within the Outline CSIMP [REP7-031], there is the commitment to make reasonable endeavours to bury offshore cables, minimising the requirement for external cable protection measures and thus minimising habitat loss impacts on benthic ecology receptors. Furthermore, within the Outline CSIMP there is a commitment for all external cable protection systems used within the MCZ to be designed to be removable (such as no use of loose rock) with a commitment to remove it at decommissioning. A final CSIMP is required under Conditions 12 of Schedules 12 and 13 of the rDCO.
- 9.2.81. The Applicant has committed to the HDD exit pit to be located within the deep infilled channel cut through the chalk to 17m below the seabed, filled with Weybourne Channel deposits, which is secured through the CSIMP.
- 9.2.82. Finally, the Applicant has submitted a Proposed Without Prejudice DCO Drafting [REP8-008] which includes the commitment to a MEEB. It is ExA's view that this is necessary, albeit with the aforementioned amendment to the wording on when the MEEB would be required, on the basis that cable protection would be used in the MCZ.

The effects of the Proposed Development on sensitive habitats and species

Sensitive Benthic Reefs

- 9.2.83. NE advised that if an Annex I habitat was identified, such as outside of the MCZ, the Applicant should recognise their value to be equivalent to if it was within a Marine Protected Areas (MPAs). Due regard should be given to the conservation of habitats where it forms a definable reef [RR-063]. NE raised the issue of *Sabellaria spinulosa* reefs, which is an Annex I (of the Habitats Directive) and a UK Biodiversity Action Plan (BAP) priority habitat, identified under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.
- 9.2.84. NE agreed with the Applicant that any Annex I habitat such as *Sabellaria spinulosa* reef habitat identified would be outside of a site designated for benthic features. NE noted in the Applicant's record of the proposed SEP site of piddocks with a sparse associated fauna in sublittoral soft chalk or clay. This biotope is classed as illustrative of the UK BAP priority habitat of peat and clay exposures with piddocks. NE requested that the Applicant provide clarification on the classification of this habitat and as a precautionary measure commits to avoiding impacts to this feature if identified [RR-063].
- 9.2.85. The Applicant responded that, as secured through the DMLs (Condition 18 of Schedule 10 and 11, and Condition 17 of Schedules 12 and 13) pre-construction surveys would be undertaken to identify any potentially sensitive features, such as *Sabellaria spinulosa* reefs, that are required to be avoided [REP1-033]. The pre-construction survey methodology would be agreed with the MMO, which could be in consultation with NE. The Applicant stated that if potentially sensitive benthic features were identified, the results of the survey would be discussed at that time with the MMO and NE to agree whether the features are required to be avoided through micro-siting [REP1-033].
- 9.2.86. In terms of the piddocks biotope the Applicant clarified that it was only confirmed at one location in the western corner of the SEP wind farm site. Furthermore, the Applicant considers that the assessment provided appropriately differentiates between biotopes and Annex I and UK BAP priority habitats with the potential to be present in the benthic ecology study area. Pre-construction surveys would be

undertaken to identify any potential Annex I/UK BAP priority habitats which, if required, would be avoided during detailed design [REP1-033].

- 9.2.87. The Applicant notes that no biogenic reef features have been identified during any surveys of SOW and DOW or within the Order limits for the Proposed Development or export cable corridors [REP3-101].

Outline Benthic Mitigation Plan

- 9.2.88. In response to the ExA written question [PD-010, Q1.3.1.7] NE stated that an outline Benthic Mitigation Plan should be provided to demonstrate the potential mitigation that could be implemented for all important receptors, including benthic reef features [REP2-065].

- 9.2.89. In response to the request for an outline Benthic Mitigation Plan, the Applicant pointed out that there were conditions within the dDML [REP8-005] (at Schedule 10, Part 2, condition 13; Schedule 11, Part 2, conditions 13; Schedule 12, Part 2, condition 12; Schedule 13, Part 2, condition 12) for a mitigation scheme for any benthic habitats of conservation, ecological and/or economic importance constituting Annex I reef habitats identified by pre-construction surveys [REP3-101]. These conditions have also been amended to now include consideration of the designated features of the MCZ (Condition 12(1)(j) of Schedules 12 and 13 of the draft DCO [REP8-005]), which was welcomed by NE [REP8-042]. The Applicant also pointed to the mitigation of potential impacts on benthic ecology receptors which are described in [APP-094]. The primary means of mitigating potential impacts on sensitive benthic features that are identified within the pre-construction surveys would be through avoidance during project design and through micro-siting of the wind turbines and cable routes. The mitigation is set out in Chapter 8 of the ES [APP-094].

- 9.2.90. The Applicant surmised that it did not consider that there would be value in submitting an outline Benthic Mitigation Plan during the Examination since the final plan would be so heavily reliant on the results of the pre-construction surveys and detailed design [REP3-101].

Post-Monitoring Remediation/Mitigation Requirements

- 9.2.91. With regard to the monitoring committed to in the dDMLs, NE stated that this monitoring is required due to uncertainties within the assessment. However, there is no requirement within the conditions for the Applicant, or regulatory authority, to take action should the monitoring highlight that the impact is significantly in excess of the impact assessed. NE state that consideration should be given to amending the monitoring requirements to make it clear that, if identified impacts are in excess of those assessed, there is a need to provide a consideration of appropriate action that could be taken [RR-063]. Furthermore, NE stated that following monitoring if it is found that mitigation measures have been insufficient, then further measures and/or remediation may be required to ensure the Proposed Development remains beneficial to the environment [REP1-136].

- 9.2.92. On this matter, the MMO states, in response to ExA written question Q.4.11.8.2 [PD-021] that the dDML post-construction monitoring conditions would not bind the undertaker to take action should the post-construction monitoring highlight any particular impacts that need remediation or further mitigation works [REP8-092]. In order for this to be secured in the dDML this would need to be included within the wording of each relevant condition. The MMO suggested the following wording, to attach to the dDML Condition - Post-construction Monitoring and Surveys:

“(6) Should the MMO identify any requirement for remediation or further mitigation works on the basis of findings from the post construction monitoring, this must be carried out as instructed by the MMO.”

- 9.2.93. The ExA asked a written question to the Applicant on the matter of potential remediation or further mitigation that may be required post-monitoring [PD-021, Q4.11.8.2]. The Applicant responded that it does not consider that any further amendments or drafting edits are necessary or appropriate [REP8-061]. The Applicant’s view was that a condition requiring further mitigation or remediation would not meet the tests for conditions, as set out in NPS EN1 at paragraph 4.1.7. The Applicant points out that measures may themselves require a separate consent or agreement before they could be implemented. The Applicant states that it would not necessarily be within the Applicant’s power to immediately undertake such works and therefore it is not appropriate to seek to impose such a requirement through the dDML [REP7-065]. The Applicant did update Condition 20 of Schedules 10 and 11 and Condition 19 of Schedules 12 and 13 of the draft DCO [REP8-005], so that if there was an identified need for additional monitoring, the requirement for any additional monitoring would be agreed with the MMO in writing and implemented as agreed.

End of Examination for these Issues

- 9.2.94. At the end of the Examination there remained disagreements between the Applicant and NE, such as whether there was a need for a pre-consent outline Benthic Management Plan and also whether there was a need for a revision to the dDCO conditions to require remediation or further mitigation works if necessary following monitoring.

ExA’s Reasoning

- 9.2.95. With regard to sensitive and important benthic habitats and species, such as *Sabellaria spinulosa*, the Applicant has committed to pre-construction surveys to identify any potential Annex I/UK BAP priority habitats which, if required, would be avoided during detailed design [REP8-061]. The pre-construction monitoring would be secured through rDML Condition 18 of Schedule 10 and 11, and Condition 17 of Schedule 12 and 13. These condition surveys proposed would be in general accordance with the principles set out in the Offshore in Principle Monitoring Plan (Offshore IPMP) [REP7-029]. This in turn states that if potentially sensitive benthic features are identified, the results of the survey would be discussed at that time with the MMO and NE to agree whether the features constitute Annex I / UK BAP priority habitat features and whether they are required to be avoided through micro-siting [REP7-029]. The survey results and what it identifies would inform the mitigation scheme for any benthic habitats of conservation, ecological and/or economic importance constituting Annex I reef habitats and the designated features of the MCZ, which is required under rDML Condition 13 of Schedule 10 and 11, and Condition 12 of Schedule 12 and 13. These same Conditions also require approval in writing by the MMO of any exclusion zones or micro-siting relating to benthic habitats.
- 9.2.96. ExA is satisfied that with these rDCO conditions this should ensure that the route of the proposed cables does not have a detrimental impact to Annex I/UK BAP priority habitats or species.
- 9.2.97. ExA notes that there is no outline Benthic Mitigation Plan submitted, but as set out by the Applicant there are details of mitigation provided as part of the ES assessment, together with details of monitoring and relevant conditions. The rDML includes a condition (rDML Condition 13 of Schedule 10 and 11, and Condition 12 of Schedule 12 and 13 for a mitigation scheme for any benthic habitats of conservation, ecological

and/or economic importance. Whilst this information is not in the form of an Outline Benthic Mitigation Plan, ExA considers there to be sufficient information submitted by the Applicant to demonstrate due regard for benthic habitats and species with the Proposed Development.

- 9.2.98. In terms of the issue of whether any necessary mitigation or remediation is secured through the conditions of the rDMLs, the ExA recognises the potential for monitoring surveys to identify effects either greater than those envisaged or deficiencies in the mitigation being applied. In such circumstances, it would be necessary to adopt an adaptive approach so that different means and methods of mitigation could be imposed to reduce any adverse effects to an acceptable level. There is currently no obligation on the Applicant, via its monitoring processes, to discuss with the relevant parties appropriate remedial or adaptive management measures. There is solely the commitment for further monitoring, which may not be sufficient.
- 9.2.99. The ExA acknowledges that this further mitigation or remediation may require a separate consent or agreement before they could be implemented and therefore may not be in the Applicant's power to undertake such remedial works. However, the ExA does not consider this a reason for there to be no requirement for further mitigation or remediation if this is proved necessary. If the monitoring uncovered unforeseen issues, maybe worse than anticipated, then there needs to be a mechanism to ensure that this is remediated and/or mitigated. Including such a provision would compel the Applicant to design appropriate mitigation, in consultation with relevant stakeholders and seek necessary approvals. Without this provision the Applicant does not have to take any remediation action, and that is not acceptable to the ExA.
- 9.2.100. The ExA notes the respective parties' positions on this matter, including the Applicant's submissions that any post-monitoring mitigation measures may themselves require a separate consent [REP8-061], but nonetheless considers that there is currently no obligation in the rDCO on the Applicant, via its monitoring processes, to discuss with the relevant parties appropriate remedial or adaptive management measures. Whilst the ExA acknowledge the Applicant may not be able to immediately undertake appropriate action, perhaps for reasons of needing a new Marine Licence, the only commitment secured is that of additional monitoring.
- 9.2.101. The ExA therefore considers, to strengthen the Offshore IPMP and provide reassurance that ongoing monitoring would contribute towards ongoing effective mitigation for offshore matters, that an additional condition should be included in the rDMLs. The SoS should therefore give consideration to conditions 20 (of Schedules 10 and 11) and conditions 19 (of Schedules 12 and 13) to be amended with the additional wording set out below or equivalent:
- 9.2.102. **"(7) In the event that the reports provided to the MMO under sub-paragraph (4) identify that there are significant adverse effects post-mitigation, the Applicant shall notify the MMO and the relevant ANCBs of this in writing with a view to agreeing to a course of adaptive management/mitigation to reduce such effects. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent. Any such agreed or approved adaptive management/mitigation should be implemented in full to a timetable first agreed in writing with the MMO."**
- 9.2.103. If the SoS is minded to agree with the ExA and impose the amendment cited above into the rDMLs, it is recommended that NE, the MMO and the Applicant should be consulted on the wording of the amendment, this having been considered necessary by the ExA after the close of the Examination.

- 9.2.104. The Offshore IPMP is secured through the rDCO and the DMLs, with consultation and collaboration with the relevant statutory bodies. The ExA therefore has confidence in the post-consent, pre-construction and operational monitoring processes established by the Applicant, and considers positive outcomes of monitoring would be enhanced with the additional clause set out above.
- 9.2.105. These conditions (Schedule 10, Part 2, conditions 13 and 18; Schedule 11, Part 2, conditions 13 and 18; Schedule 12, Part 2, conditions 12 and 17; Schedule 13, Part 2, conditions 12, and 17) would require any undertaker of the Proposed Development to submit pre-commencement a Construction Method Statement, including details of scour and cable protection; a project environmental management plan (in accordance with the outline project environmental management plan [REP7-035]); a mitigation scheme for any benthic habitats; and a monitoring plan or plans in accordance with the Offshore IPMP [REP7-029], amongst other requirements. These conditions would help secure the important benthic habitats and species, such as *Sabellaria spinulosa* through micro-siting, along with detailed cable laying plans for the Proposed Development, incorporating a burial risk assessment, which would be for MMO to approve in writing if sufficient prior to construction. These conditions reassure the ExA that the offshore works necessary could be accomplished without adverse effects greater than predicted as possible in the ES.
- 9.2.106. The ExA notes that the final version of the Schedule of Mitigation and Mitigation Routemap [REP8-021] came in at Deadline 8 on the last day of the Examination. NE commented that it was unable to provide further comment on this document within the Examination due to its submission at the final deadline. The ExA recommends that NE are consulted on the Schedule of Mitigation and Mitigation Routemap [REP8-021].
- 9.2.107. Considering the Applicant's mitigation and monitoring proposals for benthic ecology, as set out by the Applicant, the ExA has no reason to disagree with the Applicant's assessment that the adverse effects would be minor adverse to benthic species and features at worst-case. ExA is satisfied that, from the evidence, the Proposed Development would avoid significant harm to biodiversity and geological conservation interests, including through mitigation. On this issue, the Proposed Development accords with NPS EN1, including Paragraph 5.3.7.

Effects of the EMF from the proposed cables on fish, shellfish and other maritime species

- 9.2.108. The MMO generally agreed with the ES assessment [APP-095] of EMF effects on fish. However, the MMO request that the Applicant aims for a minimum cable burial depth of 1.5m (subject to local geology and obstructions) to minimise the effects of EMF on fish and shellfish [RR-053]. The MMO also stated that the >1.5m burial depth is generally applied to reduce EMF effects, however, it would have the de facto effect of also minimising adverse effects of sediment heating on sensitive bottom dwelling species, such as Sand Eels [REP3-113].
- 9.2.109. The ES explains that offshore wind farms transmit energy produced along a network of cables. As energy is transmitted, the cables emit low-energy EMF. The electrical (E) and magnetic (B) fields generated increase proportionally to the amount of electricity transmitted. The primary consideration for EMFs emitted by subsea cables is the B-field since a number of marine organisms have the ability to detect and respond to these [APP-095].
- 9.2.110. The Applicant set out that SEP and DEP would involve installing offshore export cable circuits using HVAC (High Voltage Alternating Current) technology. Fish and

shellfish species are less likely to exhibit responses to HVAC cables when compared to High Voltage Direct Current (HVDC) transmission cables, due to the higher strength EMF emitted by HVDC, according to the Applicant. From the Applicant's evidence and calculations the Applicant predicted that magnetic fields for the Proposed Development would be greatest on the seabed and reduce rapidly with vertical and horizontal distance from the circuits [APP-095].

- 9.2.111. As a worst-case, for both SEP and DEP being developed, the Applicant concluded that the potential magnitude of effect on fish and shellfish receptors would not increase above the predicted EMF value of 26.5 Micro Tesla (μT) (assuming a cable buried at 1m depth) at the seabed. This is under background measurements of $50\mu\text{T}$ in the southern North Sea. Therefore, the overall magnitude of effect of EMF for SEP and DEP on fish and shellfish receptors is considered as low by the Applicant. The mitigation is therefore to make all reasonable endeavours to bury offshore export cables, reducing the effects of EMF. Typical burial depth for SEP and DEP cables, excluding in areas of sandwaves, is expected by the Applicant to be between 0.5m to 1.5m (or up to 1m for the export cables) [APP-095].
- 9.2.112. The Applicant stating that cables would be buried where the substrate allows burial to a target depth of 1.0m, with 0.6m or greater being acceptable in chalk. However, reduced burial depths (to possibly 0.3m) may be needed in order to avoid the need for external cable protection in the MCZ [REP3-105]. The Applicant also stated that where external cable protection is installed to protect cables that are unable to be buried to an adequate depth, the barrier provided by this would be expected to attenuate EMF by a factor approximating that of a burial depth of 0.5m (since cable protection would be 0.5m high) [REP3-112].
- 9.2.113. In response to ExA written question [PD-021, Q4.3.1.2] about EMF impacts to marine species, the MMO stated that sediment heating from cables is expected to result in localised effects within close proximity to the site of the cables, so it is expected that any adverse impacts to fisheries and fish ecology would also be localised to the site of the cables [REP7-095]. Furthermore, MMO stated that whilst there is scientific evidence to confirm the effects of EMF and sediment heating on fish receptors, no significant adverse effects on elasmobranchs (and migratory fish) populations resulting from EMF have been recorded to date. However, conversely, given the limited number of studies of responses to EMF by fish in the wild, there is also considered to be lack of robust evidence to the contrary and the overall known effects of EMF on elasmobranchs remain inconclusive [REP7-095].
- 9.2.114. The Applicant noted the MMO responses. Furthermore, the Applicant pointed to the possibility of accepting a shallower minimum burial depth of 0.6m as a means of reducing the likelihood of needing to use external cable protection (specifically within the MCZ). In this case, it is suggested by the Applicant that the benefit of reducing the likelihood of needing to use external cable protection within the MCZ outweighs the risks to the environment from EMF which, whilst uncertain, are likely to be localised and not significant [REP8-060].
- 9.2.115. At the close of Examination there remained the commitment to bury the cables where possible, but this may not be to a depth of 1.5m as recommended by MMO. Though, as MMO stated, the potential impacts via EMF and/or heating of cables on benthic receptors are unlikely to change due to a decrease in cable burial depth from 1.5m (or over) to a lesser depth of 0.6m [REP7-095].

ExA's Reasoning

- 9.2.116. The ExA considers that there is the potential for some effect to fish and shellfish from EMF from the offshore cables. However, the evidence submitted by the Applicant

suggests that the intended burial of the cables plus the use of HVAC would largely mitigate the potential impacts of both EMF effects and sediment heating. The evidence on the effects of EMF on fish and shellfish is limited, as set out by MMO.

- 9.2.117. If the cables were to be buried at a shallower depth for various reasons, then this would increase the effects but the evidence at this time suggests there would not be a significant effect on fish, shellfish or other marine species. The ExA notes that the MMO stated that that potential impacts via EMF and/or heating of cables on benthic receptors are unlikely to change from a decrease in cable burial depth from 1.5+ m to 0.6m. If cable protection was to be used instead of burial, then this would also provide some EMF protection, with the Applicant stating that it could be equivalent to a 0.5m burial depth. As such, either through cable burial or protection, there should be mitigation against EMF effects on marine species.
- 9.2.118. A depth of 1.5m as MMO recommended is possibly achievable though it could be less along much of the cable corridor. However, if a lesser depth was all that could be achieved or if cable protection was used then the effects of EMF, from the evidence before the ExA through this Examination, would not be significant in its effects to fish or shellfish.
- 9.2.119. The relevant forms of mitigation to this issue would be secured through the Conditions of the rDMLs including at Schedule 10, Part 2, condition 13; DCO Schedule 11, Part 2, condition 13; DCO Schedule 12, Part 2, condition 12; DCO Schedule 13, Part 2, condition 12. These Conditions would require any undertaker of the Proposed Development to provide details of a cable laying plan, incorporating a burial risk assessment, for example, which would help mitigate against the impacts of EMF.

Effects of Construction Noise and Foundations on Fish, Shellfish and other Marine Species

- 9.2.120. The MMO [RR-053] explain that noise from the Proposed Development would mainly come from piling of foundations but maybe also from UXO. MMO explains that if monopile foundations are used, the maximum hammer energy used to install the piles would be 5500 kilojoules (kJ) and would create the highest noise levels, but installation using this method would likely be the quickest. The MMO also notes that noise modelling for the impacts of sequential and concurrent piling at different locations for SEP and DEP, including the deepest points (those with greatest noise propagation potential) has been carried out. Fish such as herring have been identified as being at high risk from noise [RR-053].
- 9.2.121. With the exception of herring, the MMO generally agreed with the Applicant's assessment conclusion that impacts to fish ecology arising from noise and vibration would be minor adverse. However, the MMO consider further details need to be provided with respect to the spatial extent of behavioural impacts for herring [RR-053]. Furthermore, MMO stated that it is unclear from the information provided if the noise modelling has been based on a concurrent piling scenario, or if it has been based on a simpler modelling exercise using two individual piling scenarios.
- 9.2.122. In terms of UXO, the MMO note that if UXO clearance is required as part of seabed preparation works, a separate marine licence would be required. The MMO were satisfied with a separate licence for UXO clearance activities and would expect an assessment of impacts to fish arising from UXO clearance to be presented as and when the UXO marine licence application is submitted [RR-053].

- 9.2.123. On the matter of the noise modelling for concurrent piling scenarios, the Applicant responded that a receptor would accumulate noise exposure over an extended period of time. The 135 decibels (dB) threshold used in the modelling is an instantaneous disturbance threshold and the millisecond-pass of a pulse from two separate sources at a single point in space where a receptor happens to be is highly unlikely and therefore not considered in the Applicant's assessments. The Applicant stated that the worst-case scenario has been assessed for this matter [REP1-033].
- 9.2.124. The MMO subsequently noted the Applicant's updates to Appendix 10.2 Underwater Noise Modelling Report [REP8-019]. This included providing more detail on simultaneous piling modelling methodology for example. MMO stated these amendments addressed its concerns [REP8-092].
- 9.2.125. In the SoCG between the MMO and the Applicant, the MMO confirm that no further underwater noise monitoring is required during examination, and that the standard monitoring secured post consent is sufficient. Therefore, this matter is agreed [REP8-092].
- 9.2.126. Concern was also raised by NE in relation to the effects of the Proposed Development on herring and sand eels. NE state that the area of DEP North is important to herring spawning and sand eel habitats. NE state that both herring and sand eels are a key prey species for Annex 1 Sandwich Terns [REP1-138].
- 9.2.127. MMO also considered both species in its RR [RR-053]. MMO stated that based on the available evidence, it is likely that if herring spawning is occurring in the project area, it may be at low levels. Consequently, according to the MMO there is insufficient evidence on spawning activity at the Proposed Development sites to justify any mitigation to limit disturbance to herring spawning habitat.
- 9.2.128. The MMO also noted that the SEP and DEP arrays also overlap areas of medium to high sand eel habitat. However, the MMO stated that given the wider areas of high suitability sand eel habitat to the north and east of the DEP and SEP sites, the MMO are content with the conclusion that significant impacts at a population level are not likely to occur [RR-063].
- 9.2.129. NE maintained its concern for the impacts to sand eels and herring at the close of Examination, although this was set out in connection with prey availability for Sandwich Terns [REP8-107].
- 9.2.130. The Applicant set out that efforts to quantify impacts to spawning grounds is likely to be inaccurate and/or misleading as spawning areas can change, for example [REP1-033]. Furthermore, the revised IPMP [REP7-029] has been updated to include proposals for sand eel monitoring to inform Sandwich tern prey availability [REP8-061].
- 9.2.131. More information with regards to prey for bird species is within Chapter 26 (Findings and Conclusions in Relation to Habitats Regulations Assessment) of this Recommendation Report.

ExA's Reasoning

- 9.2.132. From the evidence presented throughout the Examination, the ExA is satisfied that the effects through construction and siting of infrastructure with this Proposed Development, such as the noise effects or loss of habitats through foundations for example, would not amount to more than a minor adverse effect to fish and shellfish species. There would be underwater noise such as through piling, though this has been modelled and considered by the Applicant, to the satisfaction of the MMO.

Furthermore, the certain species identified by the MMO, such as Herring, would not be more effected than to a minor adverse degree.

- 9.2.133. For these reasons, the ExA is broadly in agreement with the ES conclusions and considers the effects on fish and shellfish through noise to be adverse in its effects, but not to a significant extent as a worst-case scenario.
- 9.2.134. Furthermore, from the evidence before the ExA, impacts of infrastructure foundations as part of the Proposed Development would not be significant, especially given the MMO comments about insufficient evidence of herring spawning activity in the area of the Proposed Development and the wider areas of high suitability sand eel habitat to the north and east of the Order Limits.
- 9.2.135. The relevant forms of mitigation to this issue would be secured through the Conditions of the rDMLs including at Schedule 10, Part 2, condition 13; DCO Schedule 11, Part 2, condition 13; DCO Schedule 12, Part 2, condition 12; DCO Schedule 13, Part 2, condition 12. These Conditions would require any undertaker of the Proposed Development to provide details of a Construction Method Statement. Furthermore, the Marine Mammal Mitigation Protocol (MMMP) [REP1-013] also includes details of underwater noise mitigation that would benefit fish species, such as the slow ramp up of noise for pilling.
- 9.2.136. There is also more detail of the potential impact to fish and shellfish considered in the Chapter 10 of this Recommendation Report.

9.3. CONCLUSIONS

- 9.3.1. On the issues relating to the effects on the MCZ, the ExA concludes that there would be long-term or even permanent adverse effects on the MCZ if cable protection measures were used within this designated area. There is clearly a risk that cable protection would be required if burial to sufficient depths was not possible. The ExA agrees with NE that, because the potential impact of cable protection is lasting/long term, site recovery would not be assured. There is reasonable scientific doubt remaining regarding whether the impact of the Proposed Development would hinder the conservation objectives for the MCZ. This would be contrary to the NPS EN3 in respect to the general need to mitigate impacts on subtidal habitats (Paragraph 2.6.119) and NPS EN1 in respect to avoiding harm to biodiversity and geological conservation interests (Paragraph 5.3.7), for example.
- 9.3.2. The ExA concluded that if there was to be cable protection used within the MCZ this would be contrary to the conservation objectives of this site and pose a significant risk of hindering the achievement of the conservation objectives stated for the MCZ, which conflicts with Section 126(6) of the MCAA. Consequently, the requirements of s126(7) are engaged and the ExA recommends that a Stage 2 assessment is necessary prior to any consent being granted. As set out in detail in this Chapter, the ExA is satisfied that there are no other means of proceeding other than running cables through the MCZ, and that the benefits to the public with proceeding with the Proposed Development outweighs the potential harm to the environment. In these circumstances, s126(7)(c) the MCAA sets out that the person seeking the authorisation will undertake, or make arrangements for the undertaking of, measures of equivalent environmental benefit to the damage which the act will or is likely to have in or on the MCZ.
- 9.3.3. The ExA feels the final version of the MEEB is suitable and effective. ExA considers that this should be in the rDCO. For this, the Applicant has provided the Proposed Without Prejudice DCO Drafting (Revision D) [REP8-008] and within this there is, under Part 4, the Measure of Equivalent Environmental Benefit. This includes details

of the process and the oyster bed proposal as the MEEB. It is the ExA's conclusion that this is suitable and appropriate for the MEEB and necessary if cable protection is used. The ExA therefore recommends to the SoS that the tests under s126(7) of the MCAA are met and the MEEB as set out by the Applicant would be required if cable protection was used in the MCZ.

- 9.3.4. However, as previously set out it is the view of the ExA that the MIMP should be approved by the SoS prior to any laying of cables within the MCZ, rather than before any cable protection is used (as it is currently drafted). It is the cable protection which could result in harm to the MCZ, though with the pre-construction surveys the necessity for cable protection in the MCZ should be known prior to construction commencing. Submission of the MIMP being necessary prior to the laying of cables should allow for more time between agreeing the MIMP and any potential cable protection being installed, which could be used for the initial stages of the oyster bed development. An amendment to this effect is recommended by the ExA in the rDCO. The Applicant, MMO and NE should be consulted by the SoS as this amendment has been made after the close of Examination.
- 9.3.5. In relation to the chalk features of the MCZ, it is the ExA's conclusion that the HDD used at the coast would safeguard most of the chalk features, with a combination of micro-siting and use of flexible burial depths used for cables meaning other outcropping chalk areas should be safeguarded, even if avoiding of impacts to subcropping chalk cannot be fully discounted by the Applicant.
- 9.3.6. In relation to benthic species and habitats more generally, the use of pre-commencement surveys and micro-siting would be sufficient to safeguard these valuable features, with approval from the MMO required for the construction method statement (including detailed laying plan) and pre-construction surveys, for example. The benthic mitigation overall that would be secured through the rDMLs is such that the ExA is satisfied that the effect of the Proposed Development would be mitigated to a sufficient degree.
- 9.3.7. The effects to fish and shellfish from EMF has also been considered. With the commitment to bury the cables where possible and the use of cable protection where not, the ExA is satisfied from the evidence that the effects should be localised and minor in their adverse effects. Similarly, there would be some adverse effects to fish and shellfish through foundations into what may be spawning areas and also from underwater construction noise, but from the evidence these effects would be minor adverse at worst.
- 9.3.8. If there was to be no cable protection used within the MCZ, it is the ExA's conclusion from the evidence before it that significant harm would be avoided to biodiversity and geological conservation interests, through cable route selection, micro-siting, and other forms of mitigation. However, if cable protection was to be used within the MCZ, the MEEB is recommended to be necessary by the ExA, which would offset the harm to the MCZ through compensation with the proposed oyster bed. As such, in these circumstances, the Proposed Development would accord with NPS EN1, Paragraph 5.3.7.
- 9.3.9. Furthermore, the EMF impacts are unlikely to create a barrier to fish movement, and so the Proposed Development accords with NPS EN3, Paragraph 2.6.75. Also, the cable installation and decommissioning should be able to be finally designed in a sensitive way, taking into account intertidal habitats and sensitive subtidal environments, which would be achieved through the use of HDD at landfall, for example thereby according with NPS EN3, Paragraphs 2.6.85 and 2.6.116.

- 9.3.10. The Proposed Development, with the mitigation and MEEB as set out above, accords with policies of the East Inshore and East Offshore Marine Plan. Policy BIO1, requires that appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East Marine Plans and adjacent areas. Policy MPA1 requires that impacts on the overall Marine Protected Area network must be taken account of in strategic level measures and assessments. Finally, policy CAB1 which states a preference should be given to proposals for cable installation where the method of installation is burial. The Proposed Development generally accords with these policies.
- 9.3.11. Overall, the MEEB should be of equivalent value to the MCZ, providing the benefits of an oyster bed restoration to compensate for harm caused by the Proposed Development if cable protection was to be used. With the MEEB taken into account, the Proposed Development would have neutral weight to the planning balance as a result of the impacts to the MCZ, even if cable protection was to be used. However, there would be some adverse effects as a result of the cables running through the subtidal areas as proposed, including through EMF and construction noise for example.
- 9.3.12. The ExA concludes that the matters considered under Subtidal and Intertidal Ecology including Fish and Shellfish in this chapter carries a minor weight against the making of the Order for all Development Scenarios.

10. COMMERCIAL FISHERIES AND FISHING

10.1. BACKGROUND AND POLICY CONTEXT

10.1.1. Commercial fisheries and fishing were identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on fishing stocks and potential reduction or increase in stocks, and the effect on fishing enterprises as a result of navigational and special restrictions.

National Policy Statements (NPS)

10.1.2. The assessment for Commercial Fishing and Fisheries, as set out in the Overarching NPS for Energy (NPS EN1), the NPS for Renewable Energy Infrastructure (NPS EN3), and the NPS for Ports provides relevant national policy.

10.1.3. NPS EN3 requires from the Applicant:

- early consultation with statutory advisors, with representatives of the fishing industry, and appropriate inshore fisheries groups on impact assessment methodologies and grid connection to shore, if required (NPS EN3, Paragraph 2.6.127);
- provision of detailed surveys of the effects on fish stocks of commercial interest and any potential reduction in such stocks, as well as any likely constraints on fishing activity within the project's boundaries (NPS, EN3 Paragraph 2.6.129);
- an assessment of the effects on commercial fishing potential effects of seeking safety zones around offshore infrastructure (NPS EN3, Paragraph 2.6.130); and
- an assessment including detailed surveys of the effects on fish stocks of commercial interest and the potential reduction or increase in such stocks that will result from the presence of the wind farm development and of any safety zones (NPS EN3, Paragraph 2.6.131).

In reaching a decision, NPS EN3 states that the Secretary of State for Energy Security and Net Zero (SoS) should be satisfied that:

- the site selection process, including siting in relation to the location of prime fishing grounds has been undertaken in a way that reasonably minimises adverse effects on fish stocks, including during peak spawning periods and the activity of fishing itself (NPS EN3, Paragraph 2.6.132);
- whether the project would not prevent or significantly impede protection of sustainable commercial fisheries or fishing activities, if the project occupies any recognised important fishing grounds (NPS EN3, Paragraph 2.6.132);
- the Applicant has sought to design the proposal having consulted representatives of the fishing industry with the intention of minimising the loss of fishing opportunity taking into account effects on other marine interests and should liaise with the intention of allowing the wind farm and fishing industry to co-exist (NPS EN3, Paragraph 2.6.133);
- any mitigation has been designed to enhance where reasonably possible any potential medium and long-term positive benefits to the fishing industry and commercial fish stocks. (NPS EN3, Paragraph 2.6.135); and
- disruption to the fishing industry, whether short term during construction or long term over the operational period, including that caused by the future implementation of any safety zones, has been mitigated where reasonably possible (NPS EN3, Paragraph 2.6.136).

Other Legislation and Policies

10.1.4. Other legislation, policies and guidance relevant to commercial fishing and fisheries are set out in the Environmental Statement (ES) Chapter 12 – Commercial Fisheries

[APP-098, Paragraph 12.4.1.2]. Wider policy and legislative context are also provided in the ES [APP-088] [APP-285, Section 5] and in Chapter 3 of this Recommendation Report.

- 10.1.5. Of particular relevance is the East Inshore and Offshore Marine Plan (EIEOMP). This including policies GOV2 (which requires that co-existence should be maximised wherever possible), GOV3 (which sets a preference to avoid displacement of other existing or authorised activities), FISH1 (which requires that within areas of fishing activity, proposals should demonstrate a preference that they will not prevent fishing activities on, or access to, fishing grounds), and FISH2 (which requires that proposals should, as a preference, not have an adverse impact upon spawning and nursery areas and any associated habitat).
- 10.1.6. The National Planning Policy Framework 2021 (NPPF) is a relevant consideration for Nationally Significant Infrastructure Projects (NSIP) development proposals, with the Chapter 6 – ‘Building a strong, competitive economy’, for example, relevant to commercial fishing.
- 10.1.7. The recently re-issued NPPF of September 2023 came into effect after the Examination had closed. This Recommendation Report therefore refers and relies on the previous version for its planning considerations, where relevant. However, the SoS should be aware that there were no material changes to the NPPF that were important or relevant for the consideration of this current development consent application.
- 10.1.8. Also relevant is the Best Practice Guidance for Offshore Renewables Developments: Recommendations for Fisheries Liaison, and the Fishing Liaison with Offshore Wind and Wet Renewables Group (FLOWW) Best Practice Guidance for Offshore Renewables Developments: Recommendations for Fisheries Disruption Settlements and Community Funds.

10.2. THE APPLICATION

Environmental Statement (ES)

- 10.2.1. The Applicant’s assessment of Commercial Fisheries and Fishing is set out in the ES in ES Chapter 12 – Commercial Fisheries [APP-098] and associated figures [APP-124]. also relevant is ES Chapter 9 – Fish and Shellfish Ecology [APP-095], and the associated figures [APP-122]. Other application documents that are relevant include the Fish and Shellfish Ecology Technical Report [APP-190], the Commercial Fisheries Technical Report [APP-197], and the Outline Fisheries Liaison and Co-Existence Plan [APP-295] [REP7-033].

Scope and Methodology

- 10.2.2. The Applicant has defined the Study Area using the International Council for the Exploration of the Sea (ICES) Divisions. These, along with the offshore Order limits, have been used to define the boundary for the study areas for describing commercial fisheries activity. The proposed offshore cable corridors for Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) would route through both ICES rectangles 35F1 and 34F1. However, due to the potential of displacement of fisheries activities the ICES rectangles 34F0 and 35F0 to the west of the site have also been included with the study area (APP-098 Section 12.3.1).
- 10.2.3. Based on data collected and information sources [APP-098, Section 12.4.2] the Applicant has provided an assessment of temporal and spatial patterns of fishing

activity, for example. This includes landing statistics, live weight and value. Sources include the Marine Management Organisation (MMO) and the Eastern Inshore Fisheries and Conservation Authority (EIFCA), Table 12-5 [APP-098]. The Applicant collected Vessel Monitoring Systems data from the MMO, though it is acknowledged that this only relates to vessels over 12 metres (m) in length.

- 10.2.4. The Applicant stated that consultation with national and local fishing industry representatives, fishermen and one local processor had been undertaken to ground truth the datasets analysed to inform the impact assessment. This included the National Federation of Fishermen's Organisation and the EIFCA, for example. The Applicant has provided a table of comments from the various groups and organisations in the Commercial Fisheries Technical Report [APP-197, Table 1.4].
- 10.2.5. The baseline environment and the assessment methodology relating to commercial fisheries, were agreed in final Statements of Common Ground (SoCG) with EIFCA [REP8-089].
- 10.2.6. Potential impacts as identified by the Applicant include:
- the construction activities and physical presence of constructed wind farm site infrastructure leading to reduction in access to, or exclusion from established fishing grounds;
 - offshore cable construction activities leading to reduction in access to, or exclusion from, establish fishing areas;
 - the displacement from the wind farm site and/or cable corridors leading to gear conflict and increased pressure on adjacent grounds;
 - construction activities leading to displacement or disruption of commercially important fish and shellfish resources; and
 - increased vessel traffic within fishing grounds as a result of changes to shipping routes and transiting construction vessel traffic leading to interference with fishing activity.
- 10.2.7. These impacts are assessed against a range of commercial fishing receptors, such as United Kingdom (UK) potting, UK shrimp beam trawlers, and Dutch beam trawlers, for example [APP-098].
- 10.2.8. These are assessed against what is considered worst-case scenarios, based on the potential scenarios for the Proposed Development. As set out by the Applicant, in the case of the commercial fisheries and fishing assessment, sequential development is considered to be the worst-case scenario as this represents the longest duration of offshore construction [APP-098].
- 10.2.9. For commercial fisheries, the ES [APP-098, Paragraph 52] states that potential cumulative impact activities included planned projects within 100km of project elements to provide appropriate coverage of relevant fishing grounds, including other offshore wind farms, oil and gas developments, marine aggregate extraction areas, coastal maintenance works, fisheries management areas and Marine Protected Areas.

Applicant's Assessment of Effects and Proposed Mitigation

- 10.2.10. The impacts against the various commercial fishing receptors have been considered in the ES. Embedded mitigation has been set out which applies to all commercial fishing receptors. The Applicant's mitigation proposed is summarised in the ES [APP-098] under Section 12.3.3 and Table 12-3. This includes the following:

- Communication with advanced warnings, accurate details of operations, Safety Zones, advisory passing distances and dissemination of notices and bulletins
- Ongoing liaisons with fishing fleets with an appointment of a Fisheries Liaisons Officer
- Aids to navigation, such as markings and lightings
- Markings of installed infrastructure on nautical maps
- The Fisheries Liaison and Co-Existence Plan (FLCP)
- To follow the FLOWW guidance
- Safety Zones of up to 500m
- Protocols for dealing with claims for loss or damage of fishing gear.

10.2.11. The mitigation measures are secured in the draft Development Consent Order (dDCO) [REP8-005] through draft Deemed Marine Licences (dDMLs) in Schedule 10, Part 2, condition 7 and 13; Schedule 11, Part 2, condition 7 and 13; Schedule 12, Part 2, condition 6 and 12; and Schedule 13, Part 2, condition 6 and 12. The FLCP is required under DML condition 12 or 13 (dependant on which dDML), with the outline version including reference to compensation and the role of the Fisheries Liaison Officer, amongst other things.

10.2.12. Additional mitigation specific to commercial fisheries and fishing in the ES [APP-098] only relates to UK potting fleet impacts. This additional mitigation is the potential for justifiable disturbance payments for the UK potting fleets that are affected by the Proposed Development. The Applicant sets out that the FLOWW guidance (2014 and 2015) provides guiding principles on how monetary settlements might be reached to reduce impacts, as well as promote mutual agreement and good relationships between developers and fishers. For example, FLOWW (2015) provides guidance on the evidence anticipated to support justifiable disturbance payments. Compensation is included within the outline FLCP which would be secured through the dDMLs.

10.2.13. The conclusion in the ES states that the residual adverse effects of the Proposed Development on commercial fisheries and fishing would be minor adverse at worst. Impacts on the UK potting fleet would have been moderate adverse, but the additional mitigation of the justifiable disturbance payments would result in a residual impact of minor adverse level [APP-098, Table 12-16].

10.2.14. The Applicant also sets out that the cumulative impacts on commercial fishing were assessed to be minor adverse to all mobile fleets and moderate adverse to UK potters. This was driven by the inclusion of potential management measures within Marine Protected Areas (MPAs) that could lead to restrictions to the UK potting fleet. However, the Applicant stated that the cumulative effect of the MPAs is unmitigable by the Applicant [APP-098, Paragraph 461].

10.3. LOCAL IMPACT REPORTS (LIRs)

10.3.1. The only substantive reference to commercial fisheries or fishing from the received Local Impacts Reports was by Norfolk County Council (NCC) [REP1-080] which referred to previous pre-examination comments that there should be compensation for those affected by the cumulative impacts of construction, including for local businesses and fishermen. NCC stated that where there is likely to be a demonstrable impact on commercial fishing affecting communities in Norfolk that Equinor should provide appropriate mitigation and compensation to those fishing communities affected.

10.4. THE EXAMINATION

10.4.1. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:

- 1) restrictions to fishing activity;
- 2) impact to commercial fisheries from Electromagnetic Fields (EMF);
- 3) impact to businesses indirectly effected by the Proposed Development; and
- 4) impact to commercial fishing from a potential new oyster bed compensation measure.

Restrictions to Commercial Fishing

- 10.4.2. As set out by the Applicant in the ES the development as proposed, particularly in the construction and decommissioning period, is likely to result in some reduction in access to, or exclusion from, establish fishing areas [APP-098]. Indeed, the North Norfolk Fishermen Society stated there is a concern with the loss of traditional fishing grounds [RR-070]. The EIFCA had concerns regarding the impact of the Proposed Development on UK based Potters [RR-031]. Potting is described in NPS EN3 (Paragraph 2.6.121) as typically for crab, lobster and whelks using a number of pots (or a string or pots) anchored to the seabed.
- 10.4.3. EIFCA provided more information on the concerns at Deadline (D) 1, stating that restrictions to potting grounds and displacement of activities during cable works is of key concern, particularly the potential impacts to small inshore potting boats who are limited in how far they can travel [REP1-107]. The EIFCA advise that dialogue with industry is needed to fully understand the extent to which inshore potters may be impacted by cable works and ways this could be mitigated [REP1-107].
- 10.4.4. The EIFCA also raised the issue of the several potting and netting boats that launch from Weybourne where the cable route would meet landfall. The EIFCA state that there could be impacts to these boats and this must be considered through consultation with industry members [REP1-107].
- 10.4.5. The ES acknowledges that the offshore export cable corridor overlaps with fishing grounds routinely targeted by potting vessels targeting brown crab and lobster using pots [APP-098, Paragraph 193]. Pots set along the offshore cable corridors would be required to be moved and for fishing activities at certain construction locations to cease. It was therefore the UK potting fleet which has been the focus of the Examination rather than other forms of commercial fisheries, particularly due to the concerns raised about UK potting fleet impacts from the EIFCA.
- 10.4.6. At Issue Specific Hearing 1 (ISH1) (Strategic Offshore Matters) the EIFCA made further comments on commercial fisheries and potential restrictions. Firstly, the EIFCA supported the development and agreement of a Fisheries Liaison and Co-Existence Plan (originally submitted version) [APP-295] and have had some involvement in its development. The EIFCA also explained that, from its experience with similar proposals elsewhere, the initial laying of cables and any subsequent reburial has necessitated some localised closures to fishing [EV-013] [EV-017] [REP1-109].
- 10.4.7. However, in response to the Examining Authority (ExA) written question Q1.7.2.2 [PD-010] regarding disturbance payments as a form of mitigation, the EIFCA stated that compensation packages are not its favoured approach to mitigation as they are not a long-term solution and previous experience has shown that similar payments in the past have resulted in fishers using the money to purchase more fishing gear, increasing effort elsewhere [REP1-108].
- 10.4.8. These concerns of EIFCA were reflected by local fisherman Mr Lines in ISH1, who also expressed concerns relating to the loss of sea room for fishing fleets [EV-013, Timestamp 50.00 minutes] [EV-017].

- 10.4.9. In terms of the possible compensation payments to UK potters directly impacted by the Proposed Development, the Applicant has set out that its intention is to use the embedded mitigation including measures such as appropriate management and best practice, to avoid or reduce temporary displacement of fishing fleets, with the justifiable disturbance payments a last resort [REP7-033].
- 10.4.10. On the matter raised by EIFCA about fishing boats that launch from Weybourne, the ExA asked the Applicant [PD-017, Q3.7.2.2] for its response. The Applicant responded by stating that across the wider area vessels deploying pots across offshore cable corridors would be required to temporarily relocate gear to other grounds during the construction process. However, the Applicant went on to state that it is important to note in terms of the area impacted by construction activities, there would be an advisory safety distance up to 500m radius around cable installation vessels active along the offshore cable corridors. The Applicant gave the example that this would be a roaming 0.79km² area along the offshore cable corridors. The Applicant set out that the construction period for the entire offshore export cable would be up to one hundred days, though the nearshore works would be undertaken in a shorter period. The Applicant also set out the consultations it undertook, though some did not respond [REP5-049].
- 10.4.11. More specifically to respond on this point and whether fishing associations or communities at Weybourne were directly consulted, the Applicant responded by amending the FLCP (Revision B) [REP7-033] to include a commitment to consult local Weybourne fishers to agree access, for example. In the SoCG [REP8-046] the EIFCA stated that it is happy that the required consultation to understand such potential impacts to any Weybourne fleet would be undertaken and any disruption minimised.
- 10.4.12. At the close of the Examination, there was agreement between the Applicant and EIFCA on this issue of access restriction to fisheries due to the proposed development and the mitigation the Applicant had included in the application, as shown in the signed SoCG [REP8-046].

ExA's Reasoning

- 10.4.13. The ExA has considered that, following the comments from the EIFCA and the conclusions of the ES, that the greatest impact would likely be to the UK potting fleet. The inclusion of consultation with the Weybourne fishing fleet into the FLCP is welcomed by EIFCA and the ExA. The commitment to liaising with the local fishing industry would be, in the ExA's view, particularly beneficial in trying to mitigate any adverse impacts to potentially effected fishing fleets, such as the UK Potting fleet in this area. Both the appointment of a fisheries liaison officer and a FLCP are secured through the dDMLs in Schedule 10, Part 2, condition 13; Schedule 11, Part 2, condition 13; Schedule 12, Part 2, condition 12; and Schedule 13, Part 2, condition 12. On this basis the ExA is satisfied that the effects of the Proposed Development would be effectively managed and mitigated.
- 10.4.14. There could be negative effects linked with the justifiable disturbance payments, but the Applicant has made clear that these would only be used as a last resort and where the evidence shows they are necessary. The ExA is generally satisfied that this is a last resort mitigation measure to be considered only when other mitigation measures secured through the FLPC have not been successful.
- 10.4.15. While the ExA acknowledges that the proposed wind farm development would result in adverse impacts to commercial fishing in this sea area due to some restrictions being necessary, as described by the Applicant much of the disturbance would be

temporary and the restrictions would only apply to certain offshore areas at any one time [REP5-049].

- 10.4.16. On the basis of the aforementioned factors, the ExA agrees with the conclusions of the ES after factoring in the committed mitigation.

Impacts on commercial fisheries due to EMF

- 10.4.17. The EIFCA [RR-031] and North Norfolk Fishermen Society [RR-070] raised concern that the effects of EMF from the proposed underwater cabling for the Proposed Development on fish and shellfish, on its own and cumulatively with other nearby projects, is unclear and not enough is known about electro-magnetic field impacts on marine fauna.
- 10.4.18. The ExA asked [PD-010, Q1.7.1.1] the EIFCA to respond to the ES [APP-098, Paragraph 377] which stated that no experiments have highlighted significant concerns with EMF and that the magnitude of impact of EMFs is generally considered to be low for most marine organisms.
- 10.4.19. EIFCA responded that it did not consider that the lack of research can be addressed by a single developer and thought it was the responsibility for the marine cable industry to investigate and conduct research to better understand impacts from EMFs on marine organisms. Furthermore, the EIFCA stated that every new electricity cable that is laid, the potential for cumulative impacts increases. This is of particular concern for the EIFCA for the southern North Sea which already contains a high number of wind farm cables and electricity interconnector cables that could be impacting marine species, including commercial fish and shellfish [REP1-107].
- 10.4.20. The Applicant has responded by stating that it had considered numerous studies but acknowledged there was still some uncertainties of the effect of EMF on fish and shellfish [REP2-017].
- 10.4.21. In response to the ExA question [PD-012, Q2.3.1.4] on EMF impacts offshore, the Applicant did state that the impacts of EMF are highly localised to the source, which in this case would be the cables. The Applicant further responded that background measurements of the magnetic field in the southern North Sea are approximately 50 Microtesla (μT). Whilst there is potential that burial depths shallower than 1m would be achieved, which could result in EMF levels higher than $27\mu\text{T}$, these levels would still be below those expected to result in significant physiological or behavioural impacts on fish and shellfish ecology receptors (particularly those which are commercially exploited) and along the majority of the cable routes EMF would be below ambient measurements [REP3-101].
- 10.4.22. Furthermore, the Applicant explained that where external cable protection is installed to protect cables that are unable to be buried to an adequate depth, the barrier provided by this would be expected to attenuate EMF by a factor approximating that of a burial depth of 0.5m (since cable protection would be 0.5m high) [REP3-101].
- 10.4.23. The Applicant also stated that there is evidence from other wind farm developments that there were no significant effects to fish and shellfish from EMF post-construction. The Applicant also notes that shellfish are considered of low sensitivity to EMF, which is important as shellfish is a large part of the fishing industry at the study area [REP3-101].
- 10.4.24. The Applicant does not, therefore, consider that EMF could have significant impact to fish and shellfish species [REP3-101].

- 10.4.25. Within the final SoCG [REP8-046] the EIFCA stated that the EMF effects from the Proposed Development alone seem unlikely to be significant but does have concerns around cumulative EMF impacts.

ExA's Reasoning

- 10.4.26. The ExA is persuaded by the evidence provided by the Applicant, such as the anticipated EMF levels from the cables and that this level would not be expected to result in significant harm or impacts to fish or shellfish. It is also apparent from the Applicant's evidence that the effects of EMF would be localised close to the cables.
- 10.4.27. As set out in the Outline Project Environmental Management Plan (OPEMP) [REP7-035], the Applicant would make all reasonable endeavours to bury offshore export cables, thereby reducing EMF and the need for surface cable protection. The PEMP is secured through the dDMLs in Schedule 10, Part 2, condition 13; Schedule 11, Part 2, condition 13; Schedule 12, Part 2, condition 12; and Schedule 13, Part 2, condition 12. With the Applicant intending to bury the cables or use cable protection, this should mitigate the potential impact of EMF to fish and shellfish further. The ExA also note the evidence from the Applicant is that shellfish, which is a large part of the commercial fisheries off the North Norfolk coast, is not particularly sensitive to EMF. This evidence was not contested during Examination.
- 10.4.28. The concern with regard to cumulative impacts of EMF to fish and shellfish and the associated impacts on commercial fishing remained with the EIFCA at the end of Examination. However, the Applicant's evidence implies a localised impact from the cables. This is reflected in the ES summary of EMF cumulative impacts which states that no cumulative impacts are predicted for other fish species and shellfish as a result of the localised nature of the predicted impacts and their low sensitivity [APP-095]
- 10.4.29. The ExA notes that both the EIFCA and Applicant agree that there is uncertainty as to the impact to fish and shellfish from EMF and that more research is needed. This matter was not progressed through Examination for there to be a suitable action secured through this dDCO. Furthermore, given this is a more strategic action requiring co-ordination between various developers and statutory bodies this matter would need to be pursued outside of this particular Examination and led by the offshore windfarm industry.
- 10.4.30. Overall, the ExA is persuaded by the evidence that the effects on commercial fish and shellfish would be low.
- 10.4.31. The issue of EMF impacts to fish and shellfish are also considered in detail in Chapter 9 (Subtidal and Intertidal Ecology including Fish and Shellfish) of this Recommendation Report.

Impact of Measures of Equivalent Environmental Benefit (MEEB) on commercial fisheries

- 10.4.32. The MEEB put forward as an in-principle form of mitigation to compensate for impacts within the Cromer shoals Chalk Beds Marine Conservation Zone (CSCB MCZ). The Applicant states that the planting of a native oyster bed within the CSCB MCZ would be progressed as the primary MEEB, if the SoS is unable to reach a conclusion of no significant risk of SEP and/or DEP hindering the conservation objectives of the MCZ (either alone or in-combination). This is covered in detail in Chapter 9 of this Recommendation Report. The ExA concluded in Chapter 9 that the MEEB was necessary and would offset the harm to the MCZ through compensation, if cable protection was to be used within the MCZ.

- 10.4.33. The EIFCA commented and raised concerns regarding the potential oyster bed as a MEEB throughout the Examination [RR-031] [REP1-107] [REP8-089]. EIFCA explains that it had agreed a byelaw (Closed Areas Byelaw 2021) which prohibits bottom towed gears from the majority of the MCZ to protect subtidal chalk features where they outcrop and where they are veneered, based on the potential for veneered chalk features to become exposed following advice from Natural England (NE) [REP1-107]. EIFCA were concerned with the potential for the need for further fisheries restrictions being put in place as a result of the oyster beds. It is not clear to the ExA what length of time any potential restrictions would be necessary for, but it could be potentially for the long term or permanent. Such restrictions, according to the EIFCA, would have negative impacts to fisheries. EIFCA have recommended co-location of the oyster bed MEEB within the wind farm arrays [RR-031]. However, in response to the ExAs written question Q1.3.4 [PD-010], NE had stated its preference for the MEEB to be delivered within the MCZ, in the general location it has agreed to with the Applicant [REP1-139] [REP2-020].
- 10.4.34. In relation to commercial fishing, EIFCA concerns relate to potential biosecurity risks (such as *Bonamia*) associated with the MEEB. EIFCA explained that the biosecurity risk associated with diseases such as *Bonamia* could have implications for other shellfish fisheries in the area and needs to be considered in greater detail [REP1-107].
- 10.4.35. Finally, the EIFCA commented that oyster bed restoration may also have the potential to have impacts on fish and shellfish stocks in the area due to a change in habitat type and requires further consideration [REP1-107]. However, EIFCA [REP1-108] also stated that the presence of an oyster bed would likely increase local biodiversity and could attract different fish species to the area, though the EIFCA do note that the significance of such a benefit would be minimal due to the small size of the oyster bed.
- 10.4.36. In response to the biosecurity issue, the Applicant has stated that the biosecurity of cultch and oyster sources would be a key consideration in the selection process to ensure that no pathogens or Invasive Non-Native Species (INNS) are spread. There would also be biosecurity protocols within any future MEEB Implementation and Monitoring Plan (MIMP) produced post consent once the sources of cultch and oysters are confirmed [REP1-033, Section 4.5].
- 10.4.37. With regards to the MEEB resulting in additional fishing restrictions, the Applicant states that static potting is not generally deemed to be a key issue for oyster restoration, providing the intensity of potting on the reef remains sufficiently low. However, should potting activity be shown to hinder the oyster restoration then the Applicant states that it would work with the MEEB steering group, the EIFCA and relevant fishers to identify a suitable and acceptable course of action [REP1-033, Section 4.5]. The details of membership for the MEEB steering group would be part of a plan for the work of the MEEB steering group, which the without prejudice DCO document states need to be agreed first with the SoS (Article 31).
- 10.4.38. With regard to the location of the MEEB, the Applicant states that a site within the MEEB was chosen to align with the Defra Best Practice Guidance for Developing Compensatory Measures in relation to Marine Protection Areas (Defra, 2021). The aim is to deliver compensation in the same location as the impact is occurring. The Applicant did, however, suggest that if a site within the MCZ was not feasible then an alternative site could be sought following consultation with the MEEB steering group and SoS [REP1-033, Section 4.5].

- 10.4.39. The Applicant has also stated that there is the potential that the oyster bed could have benefits for commercial fisheries with the possible use of the oyster bed as a fishery in the future if successful, though it is accepted that such success is not assured and would take a long time, if at all [REP1-033].
- 10.4.40. At the close of Examination there remained disagreement on this matter between Applicant and EIFCA. Reasons for the disagreement include that the EIFCA stated that its preference would be for oyster bed planting within the windfarm array where there is no potential for inshore fisheries to be impacted. Furthermore, EIFCA confirmed that it would not support oyster bed planting within the MCZ if this would require fisheries restrictions to be put in place because of the negative impacts it would have on fisheries and the apparent low likelihood that the bed would provide fishing opportunities in the future [REP8-089].

ExA's Reasoning

- 10.4.41. The ExA acknowledges that the Applicant has accepted that there is the potential that the oyster bed MEEB would necessitate fishing restrictions. However, if it transpires that the oyster bed development would require fishing management then this could be considered by the MEEB Steering Group and the SoS as necessary, as set out in the Applicant's Without Prejudice DCO document which includes the details of the MEEB [REP8-008]. The formation of a MEEB Steering Group and the requirement for a MEEB Implementation and Monitoring Plan is set out in the Proposed Without Prejudice DCO Drafting (Revision D) [REP8-008]. There is no specific mention of fishing impacts in this drafting, but it is for the MEEB steering group to submit a MIMP for approval by the SoS. As such, the SoS could expect to see commercial fishing organisations as part of the MEEB steering group and also for any necessary protocols or mitigations necessary due to fishing restrictions to be included in the MIMP, if considered as required at that time.
- 10.4.42. The ExA also considers that the oyster bed would be of a relatively small size (10,000m²) in this area of the North Sea. Even when cumulatively considered with other fishing restrictions, such as with current Closed Area Bylaw 21 which covers much of the CSCB MCZ, any additional fishing restrictions for the potential oyster bed would likely be relatively small.
- 10.4.43. With regards to the MEEB resulting in a biosecurity risk, as set out by the Applicant there is sufficient controls in place to address and assure against adverse biosecurity impacts through careful selection of cultch and oysters, along with set protocols. The ExA is satisfied that there are sufficient controls in place to ensure against biodiversity risk as a consequence of an oyster bed MEEB, particularly through the requirement in the Without Prejudice DCO Wording for the MIMP to be agreed by the SoS.
- 10.4.44. The ExA has considered that the potential oyster bed restoration development may have the potential to have impacts on fish and shellfish stocks in the area, due to a change in habitat type. However, ExA also notes the comments from EIFCA that the oyster beds could increase local biodiversity, though this would likely be limited due to the small size of the oyster beds proposed [REP1-108]. Being a relatively small size oyster bed the ExA also considers that it is likely that any potential impact to fish and shellfish stock would likely be minimal. There is also the potential for the oyster bed to develop to a level that it could be used for commercial fishing, which would be a benefit, but this would not be for some time and would not definitely be achievable.
- 10.4.45. In terms of the location of the MEEB as currently proposed within the MCZ, the ExA note that the general location within the MCZ has been agreed with NE (Chapter 9 of this Recommendation Report) in relation to the MEEB and its proposed location. The

support of NE is important, and it is also understood that the position of a MEEB at or close to the location of an impact is generally positive practice.

- 10.4.46. Overall, the impacts to commercial fishing as a consequence of the potential oyster bed MEEB if required would be minimal, given the size of any potential MEEB oyster bed and the controls via the plan for the MEEB steering group and the MIMP, which both have to be agreed by the SoS, for example.
- 10.4.47. The submitted Proposed Without Prejudice DCO Drafting (Revision D) [REP8-008] contains the detail of the MEEB.
- 10.4.48. Consideration of the potential requirement for a MEEB and the impacts to the MCZ are covered in detail in Chapter 9 of this Recommendation Report.

Impact to sea produce processors

- 10.4.49. Representations were made by the owner of a company known as Jonas Seafood, a seafood processor. Mr Jonas stated that the compensatory payment made previously to fishermen for moving their gear away from areas affected by windfarm developments had direct effects on his business. With less commercial fishing activity due to restrictions and as a consequence of compensation payments the amount of seafood produce his company had to process reduced [AS-037].
- 10.4.50. He also claimed that his company is a special case as it only processes crab and lobster from the North Norfolk coast. Mr Jonas stated that if there is a reduction in raw material again as a result of the Proposed Development then this could result in the closure of Jonas Seafood Ltd and the loss of 65 jobs in Cromer. Mr Jonas asserted that Jonas Seafood is part of the community fabric, and this needed to be considered if there was to be a fishing industry in the future [AS-037].
- 10.4.51. Mr Jonas continued to explain that they are a special case and would need compensating as they are specialised with processing small crab found at the North Norfolk coast for the domestic market. They cannot purchase crab from elsewhere as it would be mostly larger crab and more expensive [REP1-115].
- 10.4.52. Mr Jonas also provided data following a discussion on the issue at Open Floor Hearing 1 [EV-002] [EV-009] [EV-010]. This showed a lower amount of crab caught in 2017 and 2018 when there was compensation paid to fishermen in connection with offshore windfarm developments at Dudgeon Shoal and Race Bank [REP1-114].
- 10.4.53. In response to ExA written questions [PD-012, Q2.7.2.1] regarding Jonas Seafoods and the potential impacts on this business from the Proposed Development, Mr Jonas explained further why he considered his company was unique in its position and the impact the Proposed Development would have on his business. Mr Jonas set out that the crab caught for this area is smaller than usual for the UK and does not command the same price or have the same level of demand from the export market. Mr Jonas explained that Jonas Seafoods had built its processing methods and its market based on the supply of these smaller crabs. Jonas Seafoods could not alternatively buy crab from elsewhere due to the higher price and that the fishermen from elsewhere catching the larger crab would already have an existing customer base. Mr Jonas accepts that the Applicant cannot compensate for every potential lack of earnings down the supply chain, though Mr Jonas asserts that their case is very different, and the business is a vital part of the local crab and lobster industry [REP3-131].

- 10.4.54. In the Applicant's response to ExA written questions [PD-012, Q2.7.2.1] it highlighted that Mr Jonas of Jonas Seafood stated that the crab they process is from sea area division known as ICES Division IVb, but that SEP and DEP and the cable routes are located within ICES Division IVc. The Applicant also states that this accords with its evidence that shows greater potting effort to the North outside the Order Limits and within ICES Division IVb. It is therefore the Applicant's view that Jonas Seafood is not a special case for compensation consideration [REP3-101].
- 10.4.55. The Applicant also confirmed that this matter with Jonas Seafoods falls outside of the FLOWW Guidance as it does not include compensation for entities which are not fishers, like Jonas Seafood. The Applicant explained that the FLOWW Guidance has been developed to mitigate impacts on the fishing industry so is the appropriate one to follow. The Applicant does not consider there is a special case for mitigation outside of that process [REP3-112].
- 10.4.56. Furthermore, it is the Applicant's view that it would seek to anticipate potential disruption and seek solutions to avoid or reduce temporary displacement during surveys and construction, with financial compensation being a last option to offset remaining significant impacts. Where financial compensation is required, evidence-based agreements would be established for those individual fishermen that have a demonstrable economic dependency upon the area proposed for closure [REP3-101].
- 10.4.57. On this matter the EIFCA acknowledge that the Applicant would not be compensating sea food processors and whilst the EIFCA agree that it is better to remove the impact at source, its position remains that if compensation for fishers cannot be avoided, proportional compensation should also be provided for processors [REP8-089].
- 10.4.58. There was no further progress on this matter between Jonas Seafoods and the Applicant and so ExA considers that the dispute still existed at the end of Examination.

ExA's Reasoning

- 10.4.59. Jonas Seafood would not be a business that would be directly impacted by the Proposed Development, though there is some potential for there to be an indirect impact if there were compensation payments made to fishers who would have otherwise supplied Jonas Seafood with produce to process. It is understood by ExA that if there was less fishing activity due to compensation given to fishers along with fishing restrictions then there could be less of a catch to process for Jonas Seafood. The data from Jonas Seafoods indicating less of a crab catch when there were fishing restrictions and compensation payments for other offshore windfarm developments is evidence of this. It is also recognised that Jonas Seafood is particularly vulnerable due to their business being focused on small crab caught locally.
- 10.4.60. Whilst there could still be some impact to Jonas Seafood, it is recognised that from the Applicant's evidence submitted much of the raw material caught is not from the sea area that would be affected by SEP and DEP, including the cable routes. Indeed, Mr Jonas did make reference to crabs for the area coming from ICES division IVb [REP3-131], whereas the Applicant has explained that this area would not be significantly affected by the proposed development. It would be unlikely that the Applicant would compensate fishers whose catch is from outside of the Development Boundaries, where there should be no associated fishing restrictions. As such, without significant restrictions on fishing in the sea division IVb there would not likely be a need to compensate fishers who provide Jonas Seafood. This would indicate to

the ExA that for this Proposed Development there should be less of an impact to their crab to process than could have been the case with previous windfarm developments.

- 10.4.61. ExA also recognise that financial compensation is also a last resort for the Applicant, with other forms of appropriate management and mitigation best practice to limit the impact and avoid or reduce temporary displacement the initial focus [REP3-101]. Again, this would indicate less of a need for compensation payments to fishers and should therefore result in less of an impact to the business of Jonas Seafoods.
- 10.4.62. Overall, ExA is satisfied that the Proposed Development would not have significant impacts to seafood processors such as Jonas Seafood Ltd and there is not a persuasive case that Jonas Seafood should be compensated by the Applicant.

10.5. CONCLUSIONS

- 10.5.1. The ExA has considered all issues raised in relation to the Proposed Developments potential impacts to commercial fishing. In the first issue, the matter of fishing restrictions was considered, which would particularly impact during the construction and decommissioning phases. However, these impacts would be temporary, and the Applicant has considered mitigation such as potential justifiable compensation payments to potters and also consultation with Weybourne based fishing fleets. The ExA is satisfied that the impacts would be limited as a result.
- 10.5.2. With regards EMF impact, the effects appear to be mainly localised and would be reduced through cable burial and any use of cable protection where necessary. There is a lack of certainty and research on this matter but, based on the evidence before the ExA, the impact to commercial fisheries due to EMF would be minimal.
- 10.5.3. The concerns with regards the potential oyster bed MEEB has been considered, but currently there is no certainty that if an oyster bed was developed within the MCZ that this would result in any new or additional fishing restrictions. Such matters could be considered in more detail with the MEEB steering group if needed. Furthermore, the ExA is satisfied that the Applicant could ensure against associated biosecurity risks. Also, from the evidence before ExA, an oyster bed, especially of the size proposed, would not have significant impacts to commercial fish and shellfish stocks.
- 10.5.4. Finally, the evidence provided by both Jonas Seafood Ltd (Mr Jonas) and the Applicant persuades the ExA that there should be no significant impacts to the viability of this or other seafood processors. The focus of management rather than financial compensation should also mean that any seafood processor should not be significantly impacted.
- 10.5.5. It is the conclusion of the ExA that there has been sufficiently detailed evidence and assessment of the impact to commercial fisheries, with mitigation included by the Applicant such as the Fishing Liaison and Co-Existence Plan and the appointment of a Fishing Liaison Officer, along with possible compensation payments to the UK potting fleet where justified. The ExA is also satisfied that the Proposed Development complies with the NPS policies, including those set out in NPS EN-3 Paragraph 2.6.129, Paragraph 2.6.130, and Paragraph 2.6.133.
- 10.5.6. The Proposed Development would also comply with the East Inshore and Offshore Marine Plan, such as policies FISH1 and FISH2, on these issues through co-existence in relation to fisheries and the Proposed Development, and minimising and mitigating the impact to fishing activities.

- 10.5.7. Both the NPS and the EIEOMP policies related to fisheries allows for some adverse impacts, though these should be mitigated and minimised, for example. As such, the Proposed Development can accord with these policies but also have a degree of residual adverse effects.
- 10.5.8. Overall, whilst complying with the aforementioned policies, the ExA considers that the residual adverse effects of the Proposed Development on commercial fisheries and fishing carry a minor level of weight against the making of the Order for all Development Scenarios, including when considering cumulative effects.

11. COASTAL AND OFFSHORE PHYSICAL PROCESSES

11.1. BACKGROUND AND POLICY CONTEXT

11.1.1. Coastal and Offshore Physical Processes were identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on coastal erosion and coastal processes. This Chapter also covers offshore marine physical processes away from the coast.

National Policy Statement (NPS)

11.1.2. The assessment for Coastal and Physical Processes as set out in the Overarching National Policy Statement for Energy (NPS EN1) and the National Policy Statement for Renewable Energy Infrastructure (NPS EN3) requires from the Applicant the following:

- to assess the vulnerability of the Proposed Development to coastal change, taking account of climate change, during the project's operational life and any decommissioning period (NPS EN1, Paragraph 5.5.7);
- to assess the loss of habitat due to foundation type including associated seabed preparation, predicted scour, scour protection and altered sedimentary processes (NPS EN3, Paragraph 2.6.113); and
- to include in the assessment predictions of the physical effect that will result from the construction and operation of the required infrastructure and include effects such as the scouring that may result from the Proposed Development. (NPS EN3, Paragraph 2.6.194).

11.1.3. In reaching a decision the Secretary of State for Energy Security and Net Zero (SoS) should be satisfied that:

- that the proposed development will be resilient to coastal erosion and deposition, taking account of climate change, during the project's operational life and any decommissioning period (NPS EN1, Paragraph 5.5.10);
- where adverse effects are predicted, the effects are temporary or reversible (NPS EN3, Paragraph 2.6.117);
- the methods of construction, including use of materials, are such as to reasonably minimise the potential for impact on the physical environment (NPS EN3, Paragraph 2.6.196); and
- mitigation measures include the burying of cables to a necessary depth and using scour protection techniques around offshore structures to prevent scour effects around them (NPS EN3, Paragraph 2.6.197).

Other Legislation and Policies

11.1.4. Other legislation, policies and guidance relevant to the Proposed Development are set out in the Environmental Statement (ES) [APP-092, Section 6.4.1] and [APP-093, Section 7.4.1] and in Chapter 3 of this Recommendation Report.

11.1.5. Other legislation, policies and guidance relevant to physical and coastal processes include:

- The Marine Policy Statement (MPS).
- East Inshore and The East Offshore Marine Plans.
- The Marine Strategy Framework Directive.
- Water Framework Directive.
- Marine Strategy Regulations 2010.

- Bathing Water Regulations 2013.
- Water Environment (England and Wales) Regulations 2017.

11.1.6. The National Planning Policy Framework 2021 (NPPF) is a relevant consideration for Nationally Significant Infrastructure Projects (NSIP) development proposals in respect of biodiversity in particular Chapter 15 (Conserving and enhancing the natural environment).

11.1.7. The NPPF is a relevant consideration for Nationally Significant Infrastructure Project (NSIP) development proposals. The recently re-issued NPPF of September 2023 came into effect after the Examination had closed. This Recommendation Report therefore refers and relies on the previous version for its planning considerations, where relevant. However, the SoS should be aware that there were no material changes to the NPPF that were important or relevant for the consideration of this current development consent application.

11.1.8. East Inshore and The East Offshore Marine Plan relevant policies include Policy BIO1. This policy requires that appropriate weight should be attached to biodiversity. There is also policy CAB1 which states that preference should be given to proposals for cable installation where the method of installation is burial. Where burial is not achievable, decisions should take account of protection measures for the cable that may be proposed by the Applicant.

11.2. THE APPLICATION

Environmental Statement

11.2.1. The Applicant's assessments of coastal and offshore physical processes are set out in the ES in Chapter 6 – Marine Geology, Oceanography and Physical Processes [APP-092 and APP-119] and Chapter 7 – Marine Water and Sediment Quality [APP-093 and APP-120]. Other application documents that are relevant include:

- The Physical Processes Method Statement [APP-180].
- The Outline Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) Cable Specification, Installation and Monitoring Plan (CSIMP) Revision B [REP7-031].
- The Stage 1 Cromer Shoal Chalk Beds MCZ Assessment (Revision B) [REP7-023].
- Cable Landfall Concept Study [APP-176].
- Wave Climate Assessment [APP-181].
- Sedimentary Processes in the Cromer Shoal Chalk Beds MCZ [APP-182].
- Sheringham Shoal Nearshore Cable Route - BGS Shallow Geological Assessment [APP-183].
- DEP Benthic Characterisation Report [APP-184].
- SEP Benthic Characterisation Report [APP-185].
- The Marine Processes Technical Note (Revision B) [REP3-093].

Scope and Methodology

11.2.2. The Applicant consulted in a regular and formalised manner with members of Expert Topic Groups (ETGs), which were established to follow the majority of topics covered by the ES. The ETGs comprised experts from relevant statutory and non-statutory bodies and one of their primary functions was to agree the relevance, appropriateness and sufficiency of baseline data for the more specific assessments which are detailed within the ES. The ETG members for the topic areas identified by the Applicant are set out in its Consultation Report [APP-029].

Scope and Methodology: Marine Geology, Oceanography and Physical Processes

- 11.2.3. The Study Area [APP-092] is described as being based on the assessment of effects on marine geology, oceanography and physical processes, considers the direct footprint of Sheringham Shoal Offshore Windfarm Extension Project (SEP) and the Dudgeon Offshore Windfarm Extension Project (DEP) (near-field) and the wider areas of seabed and coast that potentially could be affected (far-field). Far field is described in the ES as the wider area that might also be affected indirectly by the Proposed Development (for example, due to disruption of waves, tidal currents or sediment pathways passing through the site). Near field is the area within the immediate vicinity (tens or hundreds of metres) of the wind farm site and along the offshore export cable corridor [APP-092, Paragraph 41].
- 11.2.4. The Applicant, for the ES Chapter [APP-092], sets out that site specific surveys on which to base the impact assessment included studies of sedimentary processes and geology in the Cromer Shoal Chalk Beds MCZ and along the export cable corridor for the Proposed Development. A wave model was also run to investigate and provide a baseline for predicting changes due to SEP and DEP. Other sources of data, such as the use of a desk top study to determine the existing wave, tidal and sedimentary processes, are set out in the ES [APP-092 Section 6.4.2.3 and Table 6-6].
- 11.2.5. The impact assessment methodology [APP-092 Section 6.4.3] includes a Source-Pathway-Receptor conceptual model for the assessment of effects on tidal current and sediment transport processes. Numerical modelling of sediment transfer processes effects of SEP and DEP was considered by the Applicant as disproportionate to the potential impact and a conceptual evidence-based assessment was preferred. However, numerical modelling of waves has been completed for potential operational impacts due to the presence of the foundation structures.
- 11.2.6. The Applicant has set out [APP-092] that for the effects on marine geology, oceanography and physical processes, the assessment follows two approaches. The two approaches to the assessment of marine geology, oceanography and physical processes are, firstly situations where potential impacts can be defined as directly affecting receptors which possess their own intrinsic morphological value; and secondly situations where effects (or changes) in the baseline marine geology, oceanography and physical processes may occur which could manifest as impacts upon receptors other than marine geology, oceanography and physical processes.
- 11.2.7. For this Chapter the realistic worst based scenarios have been set out and summarised in [APP-092, Table 6-2] for each different potential issue. The issues identified cover the phases of construction, operation and decommission, with receptors identified including the East Anglian coast, the CSCB MCZ and sand banks (and associated sandwaves).
- 11.2.8. Issues identified by the Applicant through the ES include the potential changes in suspended sediment concentrations due to seabed preparation for foundation installation and also from drill arisings. There is a consideration of changes in the seabed due to preparation for foundations, drill arisings or cable installation. There are also assessments of the impact of interruptions to bedload sediment transport due to sandwave levelling; indentations to the seabed due to vessels; changes to the tidal or wave regime; and changes to the sediment transport regime due to the presence of structures or cable protection, among other things [APP-092].
- 11.2.9. Consultation with regard to marine geology, oceanography and physical processes has been undertaken in line with the general process described in the ES [APP-091].

This includes key elements to date have included scoping and the Evidence Plan Process (EPP) via the Seabed ETG. The ETG included NE and MMO, amongst others. Comments on scoping responses with the ETG and other groups are set out in Table 6-1 of ES [APP-092].

- 11.2.10. Study areas and baseline environments and assessment methodology relating to marine geology, oceanography and physical processes, was agreed in the final Statement of Common Ground (SoCGs) with the Marine Management Organisation (MMO) [REP8-030]. However, NE did not agree within the SoCG with the assessment methodology for Marine Geology, Oceanography and Physical Processes. Whilst there was disagreement within the SoCG between the Applicant and NE on the assessment methodology for this topic issue, it was considered to have no material impact by the parties and NE did not consider this would result in material impact to the assessment conclusions. The matter was considered to be closed for the purposes of this SoCG [REP8-042].

Scope and Methodology: Marine Water and Sediment Quality

- 11.2.11. The Study Area for ES Chapter 7 [APP-093], for marine sediment quality, has been defined on the basis of the Proposed Development and therefore is the area within the offshore Order Boundaries. The wider area that may be impacted by sediment plumes is informed by ES Chapter 6 [APP-092]. The assessment was based on a site characterisation survey undertaken in the SEP and DEP sites and offshore cable corridors. Grab samples were collected for particle size analysis and chemical analysis. Other sources available includes using the Oslo and Paris Convention assessments from the past, plus Environment Agency information [APP-093 Section 7.4.2].
- 11.2.12. For Chapter 7 of the ES [APP-093] the realistic worst-case scenarios have been set out and summarised (in Table 7-2) for each different potential issue. These are based on the potential Development Scenarios for the Proposed Development. Impacts focussed on for this ES assessment related to the potential deterioration in water quality due to an increase in suspended sediment, through seabed preparation for foundations, cable installation, drill arisings, for example. Also assessed was the potential deterioration of water quality due to the release or resuspension of contaminated sediment [APP-093].
- 11.2.13. As with ES Chapter 6 [APP-092], the ES Chapter 7 [APP-093] sets out in section 7.2 the consultation with regard to marine water and sediment quality included key elements such as scoping and the EPP, via the ETG. The Applicant states that the feedback received throughout this process has been considered in preparing the ES. This chapter has been updated following consultation to produce the final assessment submitted within the Development Consent Order (DCO) application.
- 11.2.14. Study areas and baseline environments and assessment methodology relating to marine water and sediment quality was agreed in the final Statement of Common Ground (SoCGs) with the Marine Management Organisation (MMO) [REP8-030] and NE [REP8-042].

Applicant's Assessment of Effects and Proposed Mitigation

- 11.2.15. The Applicant's proposed embedded mitigation that is common across the Proposed Development is summarised in the ES [APP-092, Table 6-3 and APP-093, Table 7-3].
- 11.2.16. Embedded mitigation specific to the matter of coastal and offshore processes includes:

- 1) Minimum separation distances of 1.05 kilometres (km) between turbines.
- 2) The selection of appropriate foundations.
- 3) The use of piled foundations would be used in preference to drilling where practicable to do so.
- 4) Micro-siting of foundations to be used to minimize the requirements of seabed mitigation and avoid sandwaves.
- 5) To make reasonable endeavours to bury cables, minimising the requirement for cable protection measures and thus effects on sediment transport.
- 6) Route selection for cables to avoid areas of seabed that pose significant challenges for installation, including for example areas of sandwaves and megaripples. This will minimise the requirement for seabed preparation (levelling) and the associated seabed disturbance.
- 7) The use of Horizontal Direct Drilling (HDD) to install cables at landfall, exiting approximately 1000m offshore, so that there would be no effect on coastal erosion.
- 8) Scour protection to be used where required.
- 9) Where possible, sediment removed from cable trenches will be used as infill.

11.2.17. The Applicant has stated that it is committed to the use of best practice techniques and due diligence regarding the potential for pollution throughout all construction, operation and maintenance, and decommissioning activities, secured through a Outline Project Environmental Management Plan (OPEMP) [APP-297].

11.2.18. The Applicant did not propose specific additional mitigation within for either Marine Geology, Oceanography and Physical Processes or for Marine Water and Sediment Quality [APP-092, Table 6.3 and APP-093, Table 7.3].

11.2.19. The conclusion in the ES states that the residual adverse effects of the Proposed Development on the marine geology, oceanography and physical processes, are considered 'negligible adverse' or 'no impact'. The effects that have been assessed are mostly anticipated to result in no impact to the above-mentioned receptors because they are located remotely from the zones of influence and no pathway has been identified that can link the source to the receptor. Where there is a pathway for impact, the assessment has concluded that impacts would be of no greater than negligible. Furthermore, the results of the wave modelling show that SEP and DEP are predicted to have only a localised impact on wave climate. There is no change to these conclusions with cumulative effects, since there were no impacts or sites screened in for cumulative assessment [ES-092, Section 6.12].

11.2.20. On the issue of marine water and sediment quality, the ES [APP-093] assessment concluded that the potential residual impacts during construction, operation and decommissioning phases of SEP and DEP are considered to be negligible, both for the Proposed Development and as part of the cumulative assessment.

11.3. LOCAL IMPACT REPORTS

11.3.1. There are no substantive comments relating to offshore ecology in any of the submitted Local Impact Reports.

11.4. THE EXAMINATION

11.4.1. The ExA has focussed on what it considered to be the main issues that have not been agreed at the close of Examination, but the NE's Risks and Issue Log provides information on all the matters or issues NE has raised [REP8-107]. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:

- 1) effect of the Proposed Development on offshore sediment and sandwaves;

- 2) effect of the Proposed Development on releasing offshore contaminants; and
- 3) the effect of the landfall location proposed and cable connections on coastal processes and erosion.

Effect of the Proposed Development on offshore sediment and sandwaves

Suspended Sediment and Sediment Transfer

- 11.4.2. Firstly, there were concerns raised by Natural England (NE) at the outset of the Examination about the effects of the Proposed Development on suspended sediment and sediment transfer.
- 11.4.3. In their Relevant Representation [RR-063] NE raised the concern that the HR Wallingford (2002) suspended sediment concentration (SSC) data sets, which were used by the Applicant, are too old to be relied upon. NE went on to state that whilst the Centre for Environment, Fisheries and Aquaculture Science (Cefas) (2016) data are newer, they are not site-specific, instead referring to the seas around the UK. SSC should ideally be collected throughout the water column over a range of representative tidal, seasonal, and wave conditions. NE state that if data had been collected for the existing Sheringham Offshore Windfarm (SOW) and/or the Dudgeon Offshore Windfarm (DOW) this data would be considered appropriate and should be included.
- 11.4.4. Other issues related to sediment include the following:
- NE questioned the Applicant's rationale for the three centimetres (cm) sediment disposal thickness within the MCZ [RR-063];
 - NE queried whether, if there were multiple coincident dredging operations what the worst-case scenario would be [RR-063];
 - NE required further information in relation to the potential effects due to the discharged dredged material at the development site [RR-063]; and
 - NE stated that it was concerned with the side-casting of sediment from the HDD exit pit and would welcome storage on a barge for example [REP5-094].
- 11.4.5. Firstly, in relation to the data sets used, the Applicant through the ES [APP-093] acknowledged that an increase in sediment suspended in the sea could cause a deterioration in water quality. The ES [APP-093] states from its research that typical mean summer suspended sediment concentrations across the study area are less than 10 milligrams per litre (mg/l) whereas mean winter concentrations are 30mg/l, although concentrations may increase significantly during storm events. Furthermore, as set out by the Applicant [APP-093, Section 7.5.2], Cefas (2016) published average suspended sediment concentrations between 1998 and 2015 for the seas around the United Kingdom, with the average suspended sediment concentrations across SEP and DEP being 5-10mg/l. According to the Applicant, associated with this is the sediment type within the Study Area, with DEP North and South arrays area being dominated by medium sand, with the SEP area being predominantly sandy gravel. The sediment types vary further for the interlink and export cable corridors [APP-093, Table 7-10].
- 11.4.6. The Applicant stated that it agreed with the Expert Topic Group prior to submission of the Application to use the Cefas (2016) average suspended sediment concentration dataset which was obtained in a Geographic Information System (GIS) form and the data interrogated for the site [REP3-107]. Therefore, it is the Applicant's stance that the data is site specific and showed average suspended sediment concentrations across SEP and DEP. Furthermore, the Applicant states that the Cefas data is from a

long time series of data (17 years) and it is highly unlikely that the average concentrations up to the present day have changed [REP3-107].

- 11.4.7. The Applicant responded to NEs questioning of the Applicant's rationale for the 3cm sediment disposal thickness by explaining that the 3cm of sediment deposition described in the ES [APP-092] is in reference to changes in seabed level due to drill arisings for installation of piled foundations for wind turbines and offshore platforms. It does not refer to sediment thicknesses generated by installation of export cables [REP3-107]. It is the export cable that would run through the MCZ. The Applicant further explained that there are no thicknesses of deposition from the plume presented in the ES for export cable installation. The Applicant states that sediment would settle out of suspension within less than 20 metres (m) from the point of installation within the offshore export cable corridor and persist in the water column for less than half an hour. Almost no sand was predicted to be carried more than 100m from the cable [REP3-107].
- 11.4.8. In response to the NE concerns regarding the potential effects due to the discharged dredged material at the development site, the Applicant provided more information stating that SSC arising from multiple coincident dredging operations could potentially interact to create a larger plume which could lead to greater thicknesses of deposition. However, the Applicant states that the principle still holds true that the re-suspension of a thicker deposit (maximum 3 millimetres (mm) for a worst-case of three overlapping plumes) would disperse rapidly and it would become immeasurable over a short period of time and have negligible impact on the seabed [REP3-107].
- 11.4.9. In terms of SSC due to seabed preparation for foundation installation, the ES [APP-092] considered that the adverse effects to be negligible at worst. For example, the Applicant through the ES states that for the finer sand and mud particles released in association with the seabed preparation for foundation installation it is likely to stay in suspension in a plume for around 6 hours and would eventually settle to the seabed in close proximity to its release point (up to around half a kilometre away). The ES describes that the magnitudes of suspended sediment due to seabed preparation would be indistinguishable from background levels [APP-092, Paragraphs 179-180].
- 11.4.10. Likewise, the ES [APP-092, Paragraph 190] states that SSC for drill arisings from the turbines and OSPs would cause localised and short-term increases in suspended sediment concentrations at the point of discharge of the drill arisings. However, due to the small quantities of fine-sediment released, this is likely to be widely and rapidly dispersed. This would result in only low suspended sediment concentrations and low changes in seabed level when the sediments ultimately come to deposit.
- 11.4.11. The Applicant clarified that there was not a quantified spatial distribution of deposition resulting from sediment plume dispersion assessed for any of the offshore infrastructure. This is because the assessment was conceptual expert-based using the existing data from SOW/DOW. No bespoke modelling of sediment dispersion and subsequent deposition has been undertaken. The Applicant also stated that the SOW and DOW data suggests that worst-case thickness of sediment deposited from the plume would not likely exceed a maximum of 1mm and be less than 0.1mm over large areas of the seabed. After this initial deposition, this sediment would be continually re-suspended to reduce the thickness even further to a point where it would be effectively zero. Furthermore, the Applicant pointed out that the footprint of deposition from the plumes is irrelevant to the assessment because regardless of its geographical extent, it would have a thickness that could not be measured once dredging has stopped [REP3-107].

- 11.4.12. The Applicant stated that there would have to be some sediment removal at the HDD exit pit offshore. The HDD exit would be located within the deep infilled channel, filled with Weybourne Channel deposits. The Applicant set out that all excavated seabed sediments would be temporarily stored alongside the works location and within the export cable corridor (known as being sidecast), prior to being backfilled after cable installation [REP3-107]. The Applicant has also set out that all seabed material arising from the Cromer Shoal Chalk Beds MCZ during cable installation would be placed back within the MCZ using an approach, to be agreed with SNCBs and the MMO. This is secured through the Project Environmental Management Plan [REP7-035] (Conditions 13 of Schedules 10 and 11; and Conditions 12 of Schedules 12 and 13, of the dDCO) [REP8-005].
- 11.4.13. However, NE stated that it was concerned with the side-casting of sediment from the HDD exit pit and would welcome storage on a barge for example. This would, in NE's view, reduce the likelihood of any sediment being dispersed into the wider marine environment [REP5-094].
- 11.4.14. In response to ExAs written question Q4.3.3.2 [PD-021], the Applicant stated that the sediment removed from the Weybourne Channel will be predominantly cohesive (compacted over 1,000s of years) laminated sandy clay. Due to its cohesive nature, the sediment that is sidecast would be in the form of aggregated 'clasts' that would remain on the seabed rather than being disaggregated into individual fine sediment components. The Applicant concludes that transport of this material whilst sidecast would be limited and most would remain static [REP7-065]. The Applicant also explains that it requires the option for sidecasting rather than barge use until the detailed design stage when a contractor has been selected [REP7-065].
- 11.4.15. At the end of the Examination, in the final Statement of Common Ground (SoCG) between NE and the Applicant, within the section relating to marine water and sediment quality [REP8-042, Table 3-5], the Applicant's position was that the impact assessment methodologies used for the Environmental Impact Assessment (EIA) provide an appropriate approach to assessing potential impacts of the Proposed Development.
- 11.4.16. At the end of Examination, in the SoCG [REP8-042] and in NE's Risk and Issue Log [REP8-107] these concerns remained, though in the SoCG it sets out that while NE does not agree with the approach taken by the Applicant on these issues, including assessment methodology, it does not consider this would result in material impact to the assessment conclusions.

ExA Reasoning

- 11.4.17. On the matter of SSC, the ExA is satisfied with the ES conclusions and the further evidence provided by the Applicant through the Examination (such as the Marine Processes Technical Note [REP3-093]). The overall evidence from the Applicant indicates that any suspended sediment in plumes following infrastructure installation works offshore would likely resettle in a short period of time and not far from the source. Furthermore, the evidence from the Applicant indicates that levels of deposit of sediment on the seabed would be minimal for the most part. Indeed, the MMO states that the seabed at the development site comprises predominantly medium and coarse-grained sand. If disturbed, this is predicted to remain in the area localised to the array site and export cable corridor and fall from suspension rapidly. Furthermore, MMO notes that there are already relatively high background levels of SSC (10-30 milligrams per litre (mg/l)) [RR-053].
- 11.4.18. In terms of the data sets used for the ES assessment of SSC, whilst ExA acknowledges that some of this is older data, it is likely sufficient to provide a

baseline for current suspended sediment levels in this sea area. There is no compelling evidence to the contrary that the use of the Cefas (2016) average suspended sediment concentration dataset, which was obtained in a GIS, was not sufficient. The fact it was obtained from GIS should also mean that it is suitably location specific.

- 11.4.19. With regards to the material excavated for the HDD exit pits, it is noted that the Applicant requires the option of side-casting, though it is possible that barge storage could be used. It is ExA's view that the disturbed material could result in some SSC and sediment mobility, but the Applicant has provided an explanation as to why this would be minimal. Primarily, the material in this area to be excavated would be generally a cohesive sandy clay and would remain static. As such, the ExA is satisfied that even if side-casting was to be used to store material at the HDD exit pits this would not result in significant dispersal of sediment into the wider sea area.
- 11.4.20. As such, on the matter of SSC, ExA is satisfied that the adverse effects would be limited in terms of impact to water quality, for example.

Scour Protection

- 11.4.21. Relating further to sediment is the matter of scour and the potential need for scour protection around offshore infrastructure. The Applicant [REP3-107] explains that if no scour protection is installed, then seabed sediments and shallow near-bed sediments within SEP or DEP could be disturbed by scour around the foundations and any installed external cable protection.
- 11.4.22. NE required at the outset of the Examination the submission of a scour assessment [RR-063] but the Applicant responded that no scour assessment has been carried out. The Applicant explained that an assumption has been made for the worst-case scenario that scour protection would be used wherever scour would occur, reducing sediment release to negligible quantities. The Applicant also stated that the limited geographical extent of secondary scour means that any impact would be nugatory. Hence, an assessment of secondary scour has not been undertaken [REP3-107]. Furthermore, the Applicant states that it was not aware that there is any guidance on or information/data upon which to base an assessment of secondary scour or to estimate its potential scale [REP1-033].
- 11.4.23. However, the Applicant also stated that if there were to be scour occurrences, that due to the gradual development of the scour and the time scale over which this sediment would be gradually released into the water column, the concentrations would be indistinguishable from background levels [REP3-107].
- 11.4.24. The Applicant considers that secondary scour would not be anticipated to require additional scour protection and also stated that there would be no scour protection along the offshore cable routes. However, the Applicant is committed through the In-Principle Monitoring Plan (Revision C) [REP7-029] to monitor the extent of secondary scour.
- 11.4.25. In response NE pointed out that if there does need to be secondary scour then this could have implications in its own right and if not assessed then an additional Marine Licence would be required with no guarantee of outcome [REP7-112]. The Applicant had previously stated that the Offshore Operations and Maintenance Plan (OOMP) [REP3-058] would be resubmitted and reviewed every 3 years therefore ensuring continual review of the position in relation to scour protection and would enable the MMO to continually review at the appropriate time during operation whether or not a new consent/license is required for any further deployment of scour protection [REP1-033].

ExA Reasoning

- 11.4.26. For potential scour, which itself could result in sediment transfer, ExA notes that the Applicant has made the assumption for the worst-case scenario that scour protection would be used wherever scour would occur, reducing sediment release to negligible quantities. ExA notes this, and as such is content that no scour assessment has been submitted.
- 11.4.27. The Applicant considers that secondary scour would not require additional scour protection and also stated that there would be no scour protection along the offshore cable routes. Likewise, ExA is persuaded by the Applicant's evidence that it is likely that the extent of any potential secondary scour would likely be limited and that any associated sediment transfer or SSC caused by secondary scour would also be of a minor nature. The ES [APP-092] predicts that it is likely that any secondary scour effects associated scour protection would be confined to within a few metres of the direct footprint of that scour protection material. There is no substantive evidence to the contrary. Therefore, the ExA is content that there has not been a secondary scour assessment submitted and that it is unlikely that secondary scour would require protection. However, scour monitoring is appropriate, and the Applicant is committed to this through the IPMP [REV7-029] with monitoring of the extent of secondary scour.
- 11.4.28. ExA also notes that it is possible that if future secondary or further scour protection is needed this would potentially need a separate marine licence. This would be for the Applicant and the MMO to discuss if or when necessary. However, as the evidence from the Applicant suggests that the limited geographical extent of secondary scour means that any impact would be nugatory, there would not be the reasonable necessity for a Deemed Marine Licence condition for a secondary scour assessment.

Sandwaves

- 11.4.29. NE has raised issues in relation to the potential effects of the Proposed Development on offshore sandwaves and the time needed for sandwave recovery [RR-063]. Additional evidence was provided by the Applicant from the comparison of pre- and post-construction geophysical surveys for DOW. However, given that the DOW array was only completed in 2017, it is NE's stance that it is not possible to establish any long-term trends in seabed morphological change based on the data. Furthermore, NE stated that the DOW array sandwave migration analysis (2007-2018) provided by the Applicant was extremely useful. However, NE was concerned that of the six sites analysed, results from only three sites have been provided [REP2-062].
- 11.4.30. The Applicant provided more information on this matter in the Marine Processes Technical Note [REP3-093], where it was concluded that the analysis of low-resolution bathymetry data older than 2007 would add no value to the analysis. The Applicant added that the bespoke data from 2007 to 2018 provides enough detail and sufficient length of sandwave evolution to determine if the turbine foundations are influencing the functioning of the sandwaves (and associated ripples). Furthermore, the Applicant stated that the baseline characterisation of the bedforms supports the conclusion that the sandwaves are mobile under natural conditions and would recover from any proposed levelling through re-establishment of sand transport pathways. From the changes recorded at DOW, the Applicant's view was that they were indicative of naturally occurring processes rather than being driven by DOW. The Applicant considered that this supported the relevant assessment conclusions made by the Applicant with respect to the Proposed Development [REP3-093].
- 11.4.31. NE welcomed the further information [REP3-093], but still stated that the data did not cover a long enough period post completion of DOW to support the Applicant's

conclusions. Therefore, NE advised the monitoring of any change in sandbank composition topography within SEP and DEP and the offshore cable corridor survey areas [REP4-049].

- 11.4.32. In response to the ExAs question Q4.3.3.3 [PD-021], the Applicant responded to state where there is any remaining uncertainty on this conclusion the monitoring commitments included in the Offshore In-Principle Monitoring Plan (IPMP) [REP7-029] are the appropriate means of addressing these (alongside any ongoing post-construction monitoring at DOW) [REP7-065].
- 11.4.33. NE stated that it welcomed the proposed sandwave/sandbank recovery and migration monitoring, including consideration of changes to extent, elevation, and topography. However, NE did advise that post-construction surveys should have sufficient spatial coverage, duration, and frequency to sufficiently cover anticipated sandwave recovery rates and timeframes following sandwave levelling/lowering. Also, NE advised that the proposed monitoring should aim to validate predictions of short-term sandwave recovery following dredging and no net loss of sand from the site following levelling [REP8-101].

ExA Reasoning

- 11.4.34. The issue of sandbanks (and sandwaves) was discussed between the Applicant and NE. For the Applicant, it concluded that the data from the DOW monitoring outcomes to date strongly suggest that the observed changes are driven by naturally occurring processes alone. However, NE were not convinced due to the data not covering a long enough period post completion of DOW to support the Applicant's conclusions. Whilst ExA acknowledges that extent of data used by the Applicant to make its conclusions has limits, it is sufficient to give a strong indication that the changes are naturally occurring processes. Furthermore, the ExA agrees with the Applicant that where there is remaining uncertainty the monitoring commitments included in the IPMP [REP7-029] are the appropriate means of addressing these (alongside any ongoing post-construction monitoring at DOW).

Wave Climate Assessment

- 11.4.35. A Wave Climate Assessment [APP-181] was submitted by the Applicant as an Appendix to the ES. NE responded and expressed concern that the assessment did not reflect the worst-case scenario and advises that this needed addressing in an updated document before a shaft diameter of over 36m could be agreed with certainty [RR-063].
- 11.4.36. The Applicant acknowledged that the GBS dimensions simulated are slightly smaller than the dimensions of the largest 18+ megawatt turbines. However, the wave climate assessment assumes that there would be up to 30 of the simulated turbines in DEP and 23 in SEP, which is associated with the smaller 15MW turbine. Therefore, a worst-case assessment of a larger number of slightly smaller sized turbines has been provided [REP8-107].
- 11.4.37. In the Final SoCG [REP8-042] NE still required further clarification on the modelled versus worst-case scenario layout.

ExA's Reasoning

- 11.4.38. On the matter of the worst-case scenario used by the Applicant for its Wave Climate Assessment [APP-181], the Applicant stated that it has used a larger number of slightly smaller sized turbines [REP8-107]. The Wave Climate Assessment found that the cumulative impact (including existing windfarms) would be very limited, mostly localised around the proposed wind turbines. Furthermore, the predicted overall

impact of the proposed DEP and SEP arrays is insignificant, according to the Wave Climate Assessment. This is likely due to the number and spacing between the wind turbines within the arrays, where each turbine has an individual impact, with little interaction between adjacent turbines [APP-181].

- 11.4.39. Whilst ExA considers this issue with the worst-case scenario fully reflective of the Proposed Development, it does appear likely that the change to the worst-case scenario as set out by NE would make little difference to the conclusions of the Wave Climate Assessment. There would remain the spacing between the wind turbines for example, minimising interaction of waves between the turbines.
- 11.4.40. NE has stated that it still wished to have further clarification on worst-case scenario modelling versus the anticipated layout. However, ExA notes that in the final SoCG between the Applicant and NE on this matter [REP8-042], it was concluded that whilst there was no agreement between the parties this was concluded to have no material impact. This means that NE does not consider this would result in material impact to the assessment conclusions. The ExA would agree with this conclusion, that the issue related to the worst-case scenario for wave climate would not make a material impact to the assessment conclusions and is persuaded that the effects of wave climate from offshore infrastructure would be insignificant.

ExA conclusions on the above issues

- 11.4.41. Whilst ExA has considered the concerns raised by NE, as covered above, ExA notes that the MMO has also considered all the evidence submitted by the Applicant on these matters. In the final SoCG [REP8-092], the MMO agreed with the conclusions of the ES [APP-092] [APP093] in relation to the assessment methodologies, and the project-alone and cumulative conclusions. MMO also agreed the mitigation put forward in the ES were appropriate and also agreed with the wording of the dDCO requirements and conditions relating to these ES Chapters.
- 11.4.42. On the basis of the aforementioned factors, the ExA concludes that there would be some minor adverse effects due to the Proposed Development through the disturbance and preparation of the seabed, the need for scour protection and some levels of increased SSC. The ExA broadly agrees with the Applicants assessment of these matters and conclusions through the ES.
- 11.4.43. Some of the mitigation measures referenced in this Chapter are secured in the CSIMP [REP7-031] and the Project Environmental Management Plan [REP7-035], such as the use of HDD at landfall, the commitment by the Applicant to make reasonable endeavours to bury cables and the use of micro-siting for cable route selection, for example. Monitoring is secured through the Offshore In-Principle Monitoring Plan (IPMP) [REP7-029].
- 11.4.44. Within the dDMLs, Schedule 10, Part 2, conditions 13; rDCO Schedule 11, Part 2, condition 13; rDCO Schedule 12, Part 2, condition 12; and rDCO Schedule 13, Part 2, condition 12, requires pre-construction plans and documentation, including a cable laying plan incorporating a burial risk assessment, amongst other things.
- 11.4.45. Information regarding the various applicable mitigations are also included in the Schedule of Mitigation and Mitigation Routemap [REP8-021].
- 11.4.46. It is considered by the ExA that the methods of construction, with the mitigation as set out, is such as to reasonably minimise the potential for impact on the physical environment, as required by NPS EN3, Paragraph 2.6.196.

Effect of the Proposed Development on releasing offshore contaminants

- 11.4.47. Within the ES [APP-092] the Applicant stated that from the data it can be concluded that the baseline water quality for the offshore and coastal waters surrounding the wind farm sites and offshore export cable corridors is good and site-specific information in relation to the sediment contaminant concentrations do not contain elevated levels of contaminants likely to present a risk to water quality when disturbed. There is the potential for construction, operation and decommissioning activities to suspend sediment and if present, sediment-bound contamination, which may have a detrimental effect on water quality. However, the Applicant concluded that the potential residual impacts during construction, operation and decommissioning phases of the Proposed Development are considered to be negligible.
- 11.4.48. MMO [RR-053] stated that the Applicant had confirmed that it used a laboratory known as Fugro, who were not validated by the MMO for sediment analysis at the time of the Examination. For example, there were traces of arsenic identified, and although no sample for arsenic exceeded the Cefas Action Levels and did not seem to present a concern, MMO were nonetheless concerned with the use of a non-validated laboratory for this analysis. MMO stated that Fugro is not validated for the contaminants analyses to be able to provide confident, robust evidence on which to base a decision, such as for comparing contaminant levels with the Cefas Action Levels.
- 11.4.49. In the Final SoCG between the Applicant and MMO [REP8-030], the Applicant stated that the contaminants analysis undertaken by Fugro indicated that levels of contaminants in offshore sites were low and typical of the region. However, in order to obtain a licence for the disposal of dredged material at sea, a laboratory with MMO accreditation would be required to undertake contaminants analysis. The MMO welcomed the Applicant's commitment to undertake additional contaminants analysis using an MMO accredited laboratory.
- 11.4.50. NE on this matter deferred to the MMO with advice from Cefas on the sufficiency of the samples in terms of spatial representation across the offshore sites [REP8-042].

ExA's Reasoning

- 11.4.51. The ExA considers that with the commitment from the Applicant for further sampling and the use of a MMO accredited laboratory the initial indications of low levels offshore contaminants could be confirmed pre-construction. MMO have agreed to this approach.
- 11.4.52. The additional sediment sampling and for an MMO approved sample plan commitments are secured within the rDCO with C22. These conditions require that the undertaker must submit a sample plan request in writing to the MMO for written approval of a sample plan. The conditions also set out when the sample plan request should be made and what details it should include. It also states that unless otherwise agreed by the MMO, the undertaker must undertake the sampling in accordance with the approved sample plan.

Coastal processes and erosion

- 11.4.53. The landfall at Weybourne (Muckleburgh Estates) is near to a coastal area which for about 5km to the east is composed of cliffs with a fronting beach exposed to waves and where erosion occurs in places. There are no coastal defences [APP-092]. The ES [APP-092] states that without coastal defences there would be the loss of cliff-top land and that climate change may result in sea-level rises and waves impinging on the cliffs increasing the rates of erosion.

- 11.4.54. As part of the embedded mitigation the Applicant commits to the use of HDD being used to install the cables at the landfall, exiting approximately 1,000m offshore. The Applicant states that cables would be buried at sufficient depth to have no effect on coastal erosion. Erosion would continue as a natural phenomenon driven by waves and subaerial processes, which would not be affected by SEP and DEP. Natural coastal erosion throughout the lifetime of the project has been considered within the project design by ensuring appropriate set back distances from the coast for the onshore HDD entry point [APP-092 – Table 6-3].
- 11.4.55. In response to the ES assessment and the mitigation proposed by the Applicant to avoid adverse effects on coastal erosion, the MMO have stated it has no concerns regarding coastal erosion impacting the proposed HDD exit point at landside [REP5-080].
- 11.4.56. NE referred to Chapter 4 (Project Description) of the ES [APP-090] which states that the HDD entry point onshore would be set back approximately 150m inland from the beach frontage. Therefore, based on information available in relation to coastal erosion, NE were content that the proposed set back of the HDD entry point location onshore (landside) is appropriate. Furthermore, NE advised consideration of predicted cliff erosion profile data associated with the longer term (50-100 years) and for the Applicant to seek the expert advice of North Norfolk District Council and the Environment Agency with regards to the latest information on coastal erosion and management at landfall [REP5-094].
- 11.4.57. The Applicant stated that at the detailed design stage it would use the most up to date cliff retreat and beach profile data [REP3-107].

ExA's Reasoning

- 11.4.58. The ExA considers that the use of HDD as proposed under the North Norfolk Coast would ensure that the cable installation would not have an adverse impact to the coast and the natural physical processes that are ongoing. Furthermore, the set-back location of the HDD landfall exit is sufficient to ensure that over the course of the development lifetime it would not be affected by coastal erosion.
- 11.4.59. On the basis of the aforementioned factors, the ExA concludes that there would be no adverse effects on coastal processes as a result of the Proposed Development. The ExA considers that the Proposed Development would be resilient to coastal erosion, as required by NPS EN1, Paragraph 5.5.10.
- 11.4.60. The measures, such as the use of HDD to install cables at landfall, are secured through the CSIMP [REP7-031].

11.5. CONCLUSIONS

- 11.5.1. The ExA is satisfied that the effects of the Proposed Development on sediment transfer and movement would be minimal, with some SSC plumes likely but none that would persist or cause much change in the seabed. Likewise, the evidence suggests that effects on sandwaves would be minimal, though due to some limitations with the data, further monitoring is welcomed.
- 11.5.2. In relation to contaminants, the ES data indicates low and typical levels, but the Applicant has committed to additional post-consent sampling and to use a MMO accredited laboratory. Any effects of the Proposed Development are considered by the ExA to likely be minor, but further sampling is welcomed.

- 11.5.3. The ExA is satisfied that the use of HDD at landfall would mean that there would be no adverse impact to coastal processes or features.
- 11.5.4. Overall, in considering the issues relating to the matters of coastal and offshore physical processes, the Proposed Development with the mitigation proposed would comply with the NPS policies, such as NPS EN1, Paragraph 5.5.10, Paragraph 2.6.117, and NPS EN3, Paragraph 2.6.197.
- 11.5.5. It is also concluded by the ExA that the Proposed Development would comply with the East Inshore and Offshore Marine Plan.
- 11.5.6. There would still be some adverse effects, particularly in relation to sediment disturbance and movement. However, these adverse effects, whether based on the Proposed Development or considered cumulatively with other developments and projects, are limited. The ExA concludes that the matters considered under Coastal and Offshore Physical Processes in this chapter carry a minor level of weight against the making of the Order for all Development Scenarios.

12. NAVIGATION AND SHIPPING

12.1. BACKGROUND AND POLICY CONTEXT

12.1.1. Shipping and Navigation was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on navigational risk and on navigational safety during construction, operation and decommissioning. The Examination of effects of the Proposed Development on search and rescue has also been reported in this Chapter.

National Policy Statement (NPS)

12.1.2. The assessment for Navigation and Shipping is set out in the Overarching National Policy Statement for Energy (NPS EN1) and the National Policy Statement for Renewable Energy Infrastructure (NPS EN3).

12.1.3. Navigation and Shipping is one of the Offshore Wind Farm (OWF) potential impacts identified in NPS EN3. This requires, for example, the Applicant to:

- ensure that the assessment should be underpinned by consultation with the Marine Management Organisation (MMO), the Maritime and Coastguard Agency (MCA), Trinity House (the general lighthouse authority) relevant industrial bodies and representatives of the recreational boating sectors (Paragraph 2.6.154);
- undertake a Navigational Risk Assessment (NRA) in accordance with relevant Government guidance prepared in consultation with the MCA and the other navigation stakeholders listed in this NPS (Paragraph 2.6.156);
- include in the assessment on navigation and shipping the potential effects of safety zones around offshore infrastructure, when required (Paragraph 2.6.158); and
- provide a detailed Search and Rescue Response Assessment prior to commencement of construction (Paragraph 2.6.164).

12.1.4. In reaching a decision, NPS EN3 states that the Secretary of State (SoS) should be satisfied that:

- the construction or extension of an OWF would not likely cause interference with the use of recognised sea lanes essential to international navigation (Paragraphs 2.6.161);
- site selection should be made with a view to avoiding or minimising disruption or economic loss to the shipping and navigation industries, with particular regard to approaches to ports and to strategic routes essential to regional, national and international trade, lifeline ferries and recreational users of the sea (Paragraphs 2.6.162);
- the Proposed Development should not pose unacceptable risks to navigational safety after all possible mitigation measures have been considered (Paragraph 2.6.165);
- that where a Proposed Development is likely to affect less strategically important shipping routes, the Applicant has ensured that negative effects should be reduced to as low as reasonably practicable (ALARP) (Paragraph 2.6.163);
- the scheme has been designed to minimise the effects on recreational craft and that appropriate mitigation measures, such as buffer areas, are built into applications to allow for recreational use outside of commercial shipping routes (Paragraph 2.6.166); and
- in considering what interference, obstruction or danger to navigation and shipping is likely, and its extent and nature, there should be regard to the likely overall

effect of the development in question and to any cumulative effects of other relevant proposed, consented and operational OWFs (Paragraph 2.6.169).

- 12.1.5. The NPS for Ports also provides some relevant national policy information, such as the NPS key consideration to promote economic growth through improving networks and links for passengers and freight, as well as ensuring an efficient and competitive transport sector both nationally and internationally.

Other Legislation and Policies

- 12.1.6. Other legislation, policies and guidance relevant to Navigation and Shipping are set out in the Environmental Statement (ES) Chapter 13 – Shipping and Navigation [APP-099, Paragraph 13.4,1]. Wider policy and legislative context is also provided in the ES [APP-088] [APP-285, Section 5] and in Chapter 3 of this Recommendation Report.
- 12.1.7. Other relevant policies include those within the East Inshore and East Offshore Marine Plans (EIEOMP), such as PS2 and PS3. Policy PS2, for example, states that proposals that require static sea surface infrastructure that encroaches upon important navigation routes should not be authorised unless there are exceptional circumstances.
- 12.1.8. There are other forms of guidance that are relevant. This includes the MCA Marine Guidance Notes (MGN), such as MGN 654 (Merchant and Fishing) Safety of Navigation: Offshore Renewable Energy Installations (OREIs) – Guidance on United Kingdom (UK) Navigational Practice, Safety and Emergency Response (MCA, 2021). These are applicable and relevant.
- 12.1.9. International Maritime Organisation (IMO) Revised Guidelines for Formal Safety Assessments (FSA) for use in the Rule-Making Process (2018) is relevant to this assessment also.

12.2. THE APPLICATION

Environmental Statement

- 12.2.1. The Applicant's assessment of the Navigation and Shipping is set out in the ES [APP-099], with the associated figures for this chapter [APP-125]. Other application documents that are relevant include the Navigational Risk Assessment (NRA) [APP-198] and the Offshore In-Principle Monitoring Plan (IPMP) [Original Reference APP-289]
- 12.2.2. The latest versions of the IPMP, as well as the ES, are listed as documents to be certified in Article 38 of the dDCO.

Scope and Methodology

- 12.2.3. The assessment by the Applicant through the ES has been undertaken with specific reference to the relevant legislation and guidance, such as the NPS. The Study Area has been defined as that within a 10 nautical miles (nm) buffer of the wind farm sites and a 2 nautical miles (nm) buffer of the offshore export cable corridor, with the intention to capture all relevant passing traffic in the assessment. It has been agreed with the MCA that the vessel surveys conducted were suitable for the purposes of assessment. Furthermore, the supporting data sources and the baseline environment, as set out in the NRA [APP-198], are also agreed by the Maritime Coastguard Agency (MCA).

12.2.4. Study areas and baseline environment and data, the assessment methodology, and the assessed boundary and worst-cases, relating to Shipping and Navigation, were agreed in final Statements of Common Grounds (SoCGs) with Trinity House [REP7-044] and the UK Chamber of Shipping [REP7-055].

12.2.5. Potential impacts within the ES include displacement of shipping activities, adverse weather routing, an assessment of increased collision and allision risks, and interaction with subsea cables. These are assessed against what is considered worst-case scenarios, based on the potential scenarios for the Proposed Development. As set out by the Applicant, in the case of the shipping and navigation assessment, concurrent development was considered to be the worst-case project scenario for all impacts as it represents the maximum (worst-case) spatial footprint [APP-099, Paragraph 13.3.2.2]. This assessment is made for each phase of the Proposed Development, being the construction, operational and decommissioning phases.

Applicant's Assessment of Effects and Proposed Mitigation

12.2.6. The Applicant's proposed embedded mitigation is summarised in the ES Chapter 13 [APP-099, Table 13-3]. These includes:

- lighting and marking;
- application of Safety Zones;
- compliance by all project vessels with international maritime law;
- an agreement on the layout of the wind farms with MCA and Trinity House;
- compliance with MGN 654;
- marine co-ordination via a dedicated onshore base, including between SEP and DEP;
- promulgation of information
- an Emergency Response Co-operation Plan (ERCOP) in place prior to construction;
- use of guard vessels
- display of Development infrastructure on nautical charts;
- suitably protecting and periodically monitoring cable burial and/or protection with the Cable Burial Risk Assessment; and
- putting in place monitoring arrangements.

12.2.7. Additional mitigation specific to Shipping and Navigation which has been included in the Applicant's ES assessment include the production and use of a Navigational Management Plan (NMP) which would set out procedures for project vessels, for example. This embedded and additional mitigation would be secured through the draft Development Consent Order (dDCO) and the draft Deemed Marine Licences (dDMLs) conditions, including the dDML for Notifications and inspections, Aids to Navigation, Colouring of Structures, Pre-construction plans and documentation, Offshore safety management, and post-construction monitoring and surveys. The application for safety zones would involve applications under the Electricity (Offshore Generating Stations) (Safety Zones) (Applications Procedures and Control of Access) Regulations 2007. International maritime law is enforced via regulations such as the International Convention for the Safety of Life at Sea (SOLAS) (IMO, 1974).

12.2.8. These include secured mitigation such as:

- a commitment to provide notifications to mariners, the UK Hydrological Office (UKHO), and Kingfisher Information Service;
- aids to navigation and colouring of structures to be agreed with Trinity House;
- a plan to be agreed with MMO, MCA, Trinity House and UKHO to include details of the development, for example, positions of all turbines;

- the creation of a Navigation Management Plan to manage crew transfer vessels; and
- the layout to accord with all MCA recommendations as appropriate contained within MGN654.

- 12.2.9. These measures are secured with Conditions within the dDMLs in the dDCO [REP8-005]. This includes dDCO Schedule 10, Part 2, Conditions 7,8, 9, 13 and 16; dDCO Schedule 11, Part 2, Conditions 7,8, 9, 13 and 16; dDCO Schedule 12, Part 2, Conditions 6, 7, 8, 12 and 15; and dDCO Schedule 13, Part 2, Conditions 6, 7, 8, 12 and 15.
- 12.2.10. Monitoring frameworks are described in the Offshore In-Principle Monitoring Plan (IPMP) [REP7-029], which sets out monitoring proposals such as a commitment to pre-construction and post construction monitoring, including the effects on the levels of marine traffic across the offshore development area, and the effect on marine traffic routing and safety, for example.
- 12.2.11. A cumulative effects assessment was undertaken with the ES [APP-099] and it considered other plans, projects and activities that may impact cumulatively with SEP and DEP. As part of this process, the assessment considered which of the residual impacts the potential to contribute to a cumulative impact.
- 12.2.12. Projects and plans within 100nm of SEP and DEP have been screened and characterised by the ES [APP-099] so that developments which may increase impacts to shipping and navigation receptors when considered alongside the Project have been considered as appropriate.
- 12.2.13. In the Applicant's assessment after mitigation the residual effects would be no more than moderate adverse impact or less, following consideration of both embedded and additional mitigation measures. This is set out in Chapter 13 [APP-099, Table 13-19]. The Applicant concludes that all impacts from both Sheringham Extension Project (SEP) and the Dudgeon Windfarm Project (DEP) in-isolation, from SEP and DEP, and on a cumulative basis are assessed as being at most tolerable with additional mitigation and ALARP, which is not significant in EIA terms [APP-099, Paragraph 301].

12.3. LOCAL IMPACT REPORTS

- 12.3.1. Norfolk County Council (NCC) [REP1-080] stated it would welcome the use of port facilities at Great Yarmouth for construction, assembly and manufacture of windfarm components and for operations and maintenance, on economic development grounds.
- 12.3.2. All other submitted LIRs did not offer any substantive comments on Navigation and Shipping.

12.4. THE EXAMINATION

- 12.4.1. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:
- 1) reduction of sea room for navigation as a result of the Proposed Development; and
 - 2) search and rescue impacts.

Reduction of Sea Room/ Navigational Safety

- 12.4.2. The MCA expressed concerns, right at the outset of the Examination, that the loss of sea room would impact navigational safety. The MCA originally highlighted concerns both with the sea area between the SEP and DEP windfarm extensions, and also to the west of DEP North wind farm (DEP-N) [REP1-117].
- 12.4.3. With regards to the reduced sea area between SEP and DEP, the MCA later confirmed that it was content with the width of sea room between SEP and DEP [REP5-081]. There is no objection, therefore, to this aspect of the proposal, with the space between SEP and DEP sufficiently wide for anticipated traffic. The focus of the Examination for the issue of reduced sea room for shipping centred on the area to the west of DEP-N.
- 12.4.4. As agreed by both the Applicant and MCA, the Outer Dowsing Channel is not essential to international navigation, but as explained by the MCA, it is a strategically important route essential for regional, national and international trade [REP3-134].

Navigable Sea Room – West of DEP-N

- 12.4.5. The MCA presented the following Figure 1 which illustrated a ‘Safe sea room assessment’ [REP5-081].

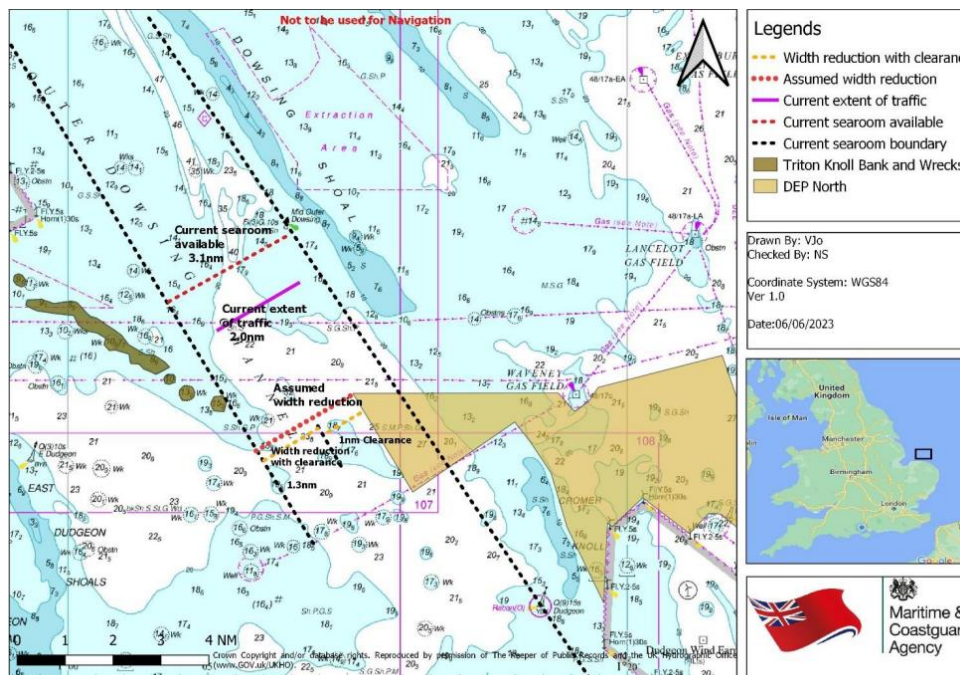


Figure 1: Safe sea room assessment

Figure 3: Safe sea room assessment

- 12.4.6. MCA considered the current sea room width available to be approximately 3.1nm, which was between the line of two buoys on the western side (known as Dudgeon Cardinal Buoy and Mid-Outer Dowsing Buoy) and an area of shallows to the eastern side. The control depth as set by the MCA for this assessment was a 15.3m wreck close to the Triton Knoll Bank shallows. The MCA considered the current extent of traffic (the width of corridor most vessels travel through) as being approximately 2.1nm. The proposed DEP-N would project between the buoys to the western side by approximately 0.8nm, but with a 1.0nm clearance that the MCA considers should be applied for vessels passing past the proposed wind turbines. MCA stated that this would result in a sea room width of approximately 1.3nm or 58% reduction from existing [REP5-081].

- 12.4.7. On the basis of MCA’s calculations, the MCA stated that DEP-N proposal posed an unacceptable risk to navigation due to the reduction of safe and available navigable sea room in an already constricted area [REP3-081].
- 12.4.8. The Applicant submitted an NRA [APP-198], which assessed collision risk for the full study area which was defined as 10nm from the wind farm sites. The subsequent Navigational Safety Technical Note (NSTN) set out that as a base case, without SEP and DEP being developed there was a 1 in 9.6 years return period for collisions. This collision risk would increase to 1 in 7.9 years if there was a 10% traffic increase, and 1 in 6.7 years if there was a 20% increase. In comparison, with SEP and DEP, the base case (existing traffic levels) would be 1 in 8.5 years, then 1 in 7 years with a 10% traffic increase, and 1 in 5.9 years with a 20% traffic increase [REP3-031].
- 12.4.9. Whilst the Applicant stated that there would be an increase in collision risk, based on the data and the NRA the Applicant concluded that the increase in risk would be tolerable with mitigation and negative impacts ALARP. Cumulative impacts were also part of this assessment. The Applicant also explained that to ensure the NRA was based on a worst-case scenario the Applicant took conservative assumptions, such as a 1nm width of traffic post-DEP-N development which would still leave sea room to the west, though was not included in the modelling [REP7-072].

Navigational Safety Technical Note – Sensitivity Scenario Modelling

- 12.4.10. Subsequent to the MCA raising concerns over the reduced sea room the Applicant submitted a Navigational Safety Technical Note [REP3-031]. This included additional modelling to explain the effects of the northwest extent of DEP-N proposals on collision risk for traffic within the Outer Dowsing Channel. The illustration below is Figure 7.2: Sensitivity Scenario Illustration, from the Navigational Safety Technical Note:

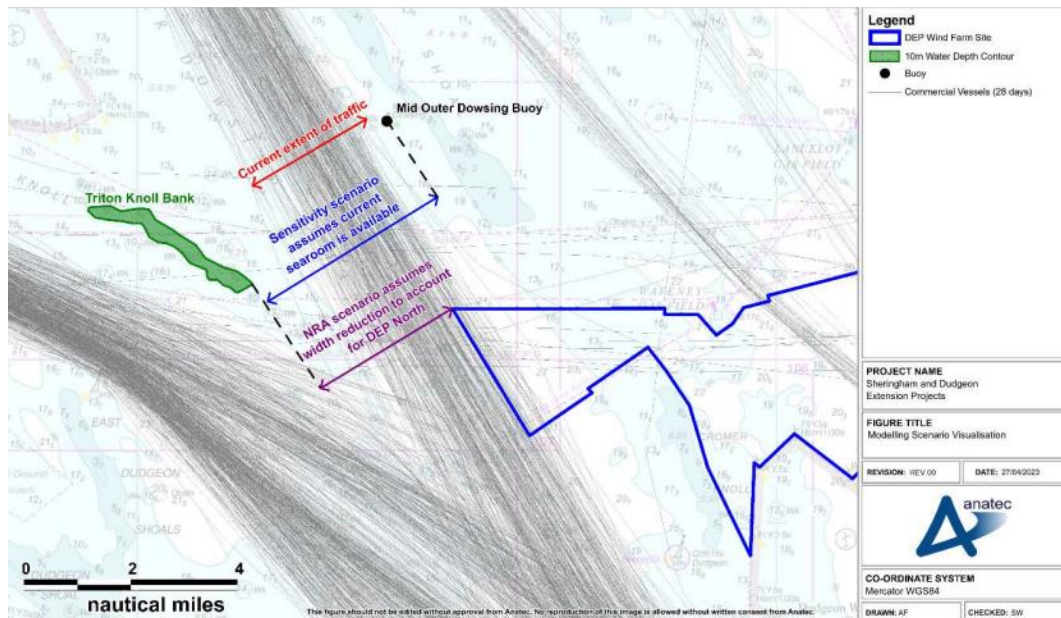


Figure 4: Sensitivity Scenario Illustration

- 12.4.11. The above illustration shows the difference in sea room between existing and post-DEP-N development. The Applicant calculates from its modelling that the collision risk would be reduced by 3% for the study area (from a frequency/return period of 1 in 8.5 years to 1 in 8.7 years based on current traffic levels) if there was no DEP-N development. The Applicant considered that this demonstrated that there would be

no material impact on collision risk as a result of DEP-N, and further supported the conclusion in the NRA that the risk is ALARP.

12.4.12. The MCA acknowledged the change of collision frequency set out in the Applicant’s sensitivity modelling but noted that this was for the entire study area and stated that it would expect the localised increase to be higher with the introduction of DEP-N [REP5-081]. The ExA requested that the Applicant provide a collision risk assessment for the Outer Dowsing Channel (west of DEP-N) alone, including data and calculations, setting out the difference in collision risk both with and without the DEP-N proposed wind farm [PD-021, Q4.19.1.1].

Localised Modelling for DEP-N

12.4.13. The Applicant, in response to the Written Question [REP7-065], provided localised results for the NRA modelling for DEP-N compared to the results of the sensitivity analysis (without DEP-N). This was set out in the following table:

Table 7: Localised results for the NRA modelling with and without DEP-N

Scenario	With SEP & DEP (NRA Modelling)	Without buildout of DEP-N (Sensitivity)	% Change
Base Case (0% traffic increase)	1 in 140 years	1 in 172 years	23%
10% traffic increase	1 in 115 years	1 in 142 years	24%
20% traffic increase	1 in 96 years	1 in 119 years	24%

12.4.14. On these localised modelling results, the Applicant explains that in its view there is nothing unusual around a change of 23% in such assessments, and there are other localised areas within the NRA study area where the change in risk is larger on a percentage basis. The Applicant sets out that as the collision return periods would rise from 140 to 172 years (at Base Case data) no collision would be statistically expected to occur over the 40 year lifespan of the proposed development [REP7-063]. Furthermore, the Applicant argues that the use of a 20% traffic increase is a conservative assumption, with traffic levels likely to fluctuate, maybe less than the 20% level. However, the MCA commented that the Applicant had previously confirmed its assessment of the increase in collision risk in the area immediately west of the boundary of DEP-N would be 23%, which for the MCA appeared to confirm its concerns [REP5-081].

Control Depth

12.4.15. From the modelling illustrations it was clear that there was a difference between the Applicant and MCA on the width of existing sea room and therefore a difference in what would remain if DEP-N was developed to the western edge of the proposed development boundary. There was a difference in the position of the western side of the Outer Dowsing Channel as defined by each party, which related to what they considered was the controlling depth.

12.4.16. For the MCA, it considered that the prevailing traffic choose to avoid the 15.3m and 13.2m wrecks (controlling depths) southeast of the Triton Knoll Bank. The MCA stated that the tracking of vessels included in the NRA shows that vessels mostly transit east of the 15.3m wreck [REP8-093]. However, the Applicant stated that there

is no case for the 15.3 metre controlling depth argued for by the MCA, noted that less than 1% of vessels recorded within a year had more than a draught of 10 metres and around 7% to 8% of vessels had a draught of between 8 and 10 metres. The Applicant points to the Trinity House's submission [REP5-096] which highlights the 10 metre contour and measures a distance of 3.83nm to the line extending between the Mid Outer Dowsing Buoy and the Dudgeon Buoy, which represents the width of available sea space. Furthermore, the Applicant states that the data shows that vessels navigate in the area based on waypoints they are heading to and from [REP7-063], rather than using the wrecks as controlling depths. The Applicant has therefore instead used a 10m contour line to set the western side of the channel sea room, close to the Triton Knoll Bank shallows.

- 12.4.17. Trinity House did not disagree with the Applicant on the use of the 10m contour. Trinity House stated that it would assess the volume and draft of the shipping and mark the channel accordingly. This could be the 8m or the 10m contour and concurred with the applicant that it did not believe vessels are using the 15.3m wreck as a controlling depth as they already have its courses laid down and waypoints planned. Also, Trinity House suggested that there are alternative routes for larger shipping and it thought that most of the larger ships would already be using the deeper water routes to the east of the proposed development [REP7-124]. The UK Chamber of Shipping also recognised the controlling depth as being the 10m contour rather than the 15.3m wrecks [REP8-121].
- 12.4.18. On the issue of vessel draught depths, the MCA responded on this matter by stating that it must consider the impacts to navigation in a worst-case scenario, such as considering the largest vessels at all states of tide, weather and sea state conditions. The MCA set out that a vessel's Master will consider not just vessel draught but squat allowances, roll/heel allowance, and allowance for zone of confidence of the charted depths. The MCA state that a prudent mariner will add an adequate clearance (minimum Under-keel Clearance) on top of the dynamic draught when identifying safe navigable depths [REP8-093].

Clearance distances

- 12.4.19. Another difference between the MCA and Applicant was the clearance distance that vessels would typically take from a wind farm array. For the MCA it has used 1nm, though the MCA agree with the Applicant that there are no mandatory safe passing distances and the decision would be with the Master of the vessel. The MCA do not consider this clearance distance of 1nm to be either unrealistic or unreasonable, and have referenced MCA guidance in MGN654 Annex 2 which indicates passing distances of less than 1nm as either high or very high risk [REP8-093].
- 12.4.20. The Applicant submitted the document Vessel Passing Distances from UK Wind Farms. This showed tracking of vessels near other UK OWFs and concluded that it demonstrated that vessels can and do routinely pass within 1nm of OWFs in the UK [REP5-050]. The MCA responded to examples given by the Applicant of vessels using clearance distances from wind farms of less than 1nm, explaining that there were reasons for this in each example such as avoidance of other features [REP8-093]. The MCA pointed to the submitted Navigational Risk Assessment which showed, for example, that the majority of vessels passing west of the existing Dudgeon wind farm had a clearance of more than 1nm [REP5-081]. The use of 1nm as a clearance from the proposed DEP-N wind farm boundary was used in its calculation of remaining sea room being 1.3nm in width.
- 12.4.21. The Applicant have stated that vessels routinely pass within 1nm of the existing Dudgeon Offshore Wind farm turbines, which the Applicant states is evidence that prudent mariners will select their own passing distances based on the various

relevant factors including weather, and local navigational features, such as shallows, for example [REP3-031].

- 12.4.22. The Applicant has also noted that during construction there could be the presence of buoyed construction areas including 500metre (m) rolling active safety zones around fixed structures where work is being undertaken [APP-099]. However, MCA stated that in these periods of construction and major maintenance on the turbines closest to the boundary, these 500m safety zones would potentially constrict the sea room and increases collision risk further [REP3-134].

Frequency of Passing Vessels

- 12.4.23. The Applicant stated that the frequency of two or more commercial vessels being within the same 30-minute period within a localised area of the Outer Dowsing Channel whilst traversing past the western edge of DEP-N was less than 3.4% in 2019. The Applicant describes this as a low probability, with the chance that one of these encounters results in a collision as very low [REP6-013]. The MCA responded that it must ensure that the risks to vessels remain tolerable (if ALARP) or acceptable at all times. It is not acceptable to the MCA to say that the risks to vessels are tolerable if, for even a short time, they are exposed to a hazardous area with an unacceptable risk. The MCA also note that the 16 commercial vessels using the Outer Dowsing Channel each day as set out in the NRA [APP-198] does not include other vessel types such as fishing or recreational vessels, for example [REP7-096].

Precedent Examples

- 12.4.24. The Applicant states that there is precedent for shipping channels with narrow widths, including Race Bank Channel to the southern part of the study area, closer to the Norfolk Coast. The Applicant demonstrates that this is busier, narrower and longer than the Outer Dowsing Channel, though has had no incidents of collisions or grounding incidents over the periods studied (approximately 20 years) [REP3-031]. The MCA responded to this by stating that the Race Bank channel is used by vessels with lesser Length Overall (LOA) and of lesser draughts compared to the vessels using the Outer Dowsing Channel. This determines the manoeuvrability of the vessels [REP6-027].

End of Examination Positions and Mitigation

- 12.4.25. At the close of Examination, MCA had not changed its stance that the Proposed Development which would include wind turbines up to the edge of the boundary of DEP-N would increase collision risk and would be unacceptable. The MCA required further mitigation to reduce navigational risks to ALARP [REP7-096].
- 12.4.26. The MCA had in the Examination [REP7-096] responded to ExA question [PD-021, Q4.19.1.6] by recommending an exclusion area which would essentially be an infrastructure/obstacle free zone west of the line between the Dudgeon Cardinal Buoy and the Mid-Outer Dowsing Buoy. The MCA recommended that the inclusion of the following provision would be required to reduce navigational risks to ALARP [REP7-096, Q4.19.1.10].

*“None of the infrastructure listed in Work No.*** may be installed within the area defined by the coordinates as specified below and no part of any wind turbine generator, including its blades, may overfly into the area:*

<i>Point ID of the area</i>	<i>Latitude (D°M.MM')</i>	<i>Longitude (D°M.MM')</i>
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<i>A (NW corner)</i>	<i>53° 21.1541' N</i>	<i>1° 10.1853' E</i>
<i>B (SW corner)</i>	<i>53° 19.0449' N</i>	<i>1° 12.3327' E</i>
<i>C (NE corner)</i>	<i>53° 19.5696' N</i>	<i>1° 13.6102' E</i>
<i>D (SE corner)</i>	<i>53° 21.1558' N</i>	<i>1° 11.8346' E"</i>

- 12.4.27. However, the Applicant does not believe that the extent of the MCA's recommended infrastructure/obstacle free zone would stand up to scrutiny [REP7-063]. The Applicant states that such a mitigation cannot be justified when applying normal navigation risk technical analysis and principles which inform navigation risk judgments for new wind farms. The Applicant has also stated that any such restriction on buildable area within DEP-N would restrict the overall flexibility of delivering DEP, and that the ability of DEP-N to be developed on its own using the full quantum of wind turbine generators would be compromised [REP7-065].
- 12.4.28. For the Applicant, it maintained that the embedded and additional mitigations proposed within the NRA [APP-198] are sufficient to mitigate risks to ALARP, which includes for multiple vessels transiting in the Outer Dowsing Channel. This includes the embedded mitigation of internationally required compliance by vessels with the International Regulations for the Prevention of Collisions at Sea (COLREGS). Under COLREGS vessels are required to take appropriate measures in determining a safe speed and the proximity of navigational hazards, for example [APP-099]. The Applicant also confirmed that it did receive feedback from tankers and regular operators and one such response included a chart of a future case route post-development which was the operator's adverse weather route. The Applicant stated that this indicated that operators remain confident to navigate post-DEP-N, even in adverse weather [REP7-063].
- 12.4.29. Whilst the Applicant does not consider any further mitigation is necessary, in response to the ExA [Q4.19.1.6, REP7-065], the Applicant submitted a 'without prejudice' surface structure free area, with an amended Offshore Works Plan (without prejudice version) (Revision B) [REP8-004]. The Applicant states that this shows a surface structures free area that complies with the MCA's calculation for adequate sea room to allow four vessels to safely pass each other in the Outer Dowsing Channel, with the western extent defined by the 10m controlling depth as confirmed by Trinity House.
- 12.4.30. The MCA had sight and responded to the without prejudice amended Offshore Work Plans before the close of Examination. The MCA stated that the images in this document are not presented on a navigational chart and are without calculations on the sea room, so they are inadequate in graphically representing that remaining sea room is sufficient. As such, this proposed potential additional mitigation from the Applicant did not alter the stance of the MCA, which is that there would be an increase in collision risk in the DEP-N area which would be unacceptable [REP8-093].
- 12.4.31. At the end of Examination, Trinity House had a final signed SoCG with the Applicant that agreed all points, including with regard to EIA Conclusions, and navigational safety [REP7-044]. Trinity House also welcomed the additional modelling for DEP-N and the localised data and confirmed it is content with the analysis and conclusions [REP8-119]. Trinity House also clarified it was not requiring or suggesting further mitigation, such as an obstacle free zone. Trinity House did conclude also that when it has sight of the final layouts it would suggest the aids to navigation required as mitigation, including possibly moving its own aids to navigation [REP7-124].

- 12.4.32. The UK Chamber of Shipping at the end of Examination said that the western extent of DEP-N unnecessarily protrudes into the Outer Dowsing shipping channel increasing collision and allision risk. However, whilst the Chamber would strongly support a further reduction of the wind turbine construction area in DEP-N, it welcomes and supports a without prejudice position/mitigation put forward by the Applicant as a solution to reach ALARP for navigational safety risk [REP8-121].
- 12.4.33. At the close of the Examination, there remained a clear objection from the MCA due to the reduction in sea room and its view that this would result in unacceptable effects to navigational safety [REP8-093]. However, the Applicant remained of the view that the Navigational Risk Assessment is robust and that with the embedded and additional mitigation (not including the without prejudice amended offshore work plans) any risk would be ALARP, including in the Outer Dowsing Channel [REP8-062].

ExA's Reasoning

- 12.4.34. There was some initial concern from the MCA relating to loss of sea room between SEP and DEP, but this concern was withdrawn [REP5-081]. Apart from the issue of sea room reduction west of DEP-N there was no objections or concerns raised by any party. The ExA is therefore satisfied that for all the study area, other than the channel adjacent to DEP-N, the proposed development would minimize negative impacts due to reduction in sea room to ALARP, with the embedded and proposed additional mitigation, such as the NMP.
- 12.4.35. As clearly demonstrated through the Examination, the issue that has led to the objection remaining from the MCA is the reduction in sea room west of the proposed DEP-N array. The MCA objection can be summarised as being a constriction of the two-way traffic into a channel with less than half of the current sea space due to the loss of sea room to the west of the northern section of the DEP array [REP3-134]. As agreed by both the Applicant and MCA, the Outer Dowsing Channel is not essential to international navigation, but as explained by the MCA, it is a strategically important route essential for regional, national and international trade [REP3-134], and considering the routes between ports using this channel and the number of vessels using it, the ExA accepts this is a shipping lane of importance.
- 12.4.36. In the MCA calculations DEP-N would result in an approximate 1.3nm channel width remaining from 3.1nm existing, in what the MCA describe as an already high-risk area. Indeed, it is clear that the wider area has a number of features which would have to be considered when a vessel is transiting through the area, such as existing wind farm arrays and shallow depth areas. The ExA therefore accepts that this is an already high risk area for shipping navigation.
- 12.4.37. The MCA modelling which shows the remaining 1.3nm remaining sea room width to the west of the proposed DEP-N includes both a 1nm clearance buffer and also sets the control depth based on the 15.3m wreck to the western edge of the channel. In terms of the 1nm clearance buffer, ExA acknowledges that there are examples of vessels transiting closer than 1nm to wind farms, as evidenced by the Applicant. However, as MCA explained, the ExA is satisfied that this could be for specific navigational reasons, such as avoidance of other features in the area. The MCA has also referred to guidance set out in MGN654 Annex 2, which advises that passing distances of less than 1nm could be very high risk. Moreover, it is apparent to the ExA from the Applicant's Figure 6.2 of the Navigational Safety Technical Note [REP3-031] that most vessels pass the existing Dudgeon Wind Farm approximately 1nm from the array. The ExA is overall persuaded by the argument made by MCA that given there is no mandatory clearance, some vessels will transit closer to turbines and so a 1nm clearance is reasonable for this modelling.

- 12.4.38. On the matter of disagreement between Applicant and MCA on the control depth, the ExA acknowledges that the MCA have taken the control depth as being a 15.3m wreck to the south east of Triton Knoll Bank, whereas the Applicant has used a 10m contour which near Triton Knoll Bank itself. The ExA acknowledge that for most vessels that travel through the Outer Dowsing Channel the 10m contour as a controlling depth would be sufficient. However, there are larger vessels with deeper draughts that have been recorded travelling through the Outer Dowsing Channel. The ExA is persuaded by the MCA's explanation that Masters of vessels should also consider dynamic draughts, to allow for roll and heel of the vessels for example [REP8-093]. Indeed, from the Applicant's own evidence, vessel tracking demonstrates that vessels mostly transit east of the 15.3m wreck, which suggests to the ExA that this is a navigation feature that is actively avoided. Overall, whilst it is noted the support of Trinity House and UK Chamber of Shipping of the 10m contour as controlling depth, the ExA is persuaded that the 15.3m depth used by MCA is reasonable and appropriate for modelling.
- 12.4.39. Notwithstanding the matters of clearance distance and control depths, the Applicant has themselves undertaken a sensitivity scenario modelling and provided localised collision risk information. The sensitivity modelling showed what the difference would be on the collision risk if there was no DEP-N development and found that there would be an approximate 3% collision risk reduction from that assessed in the Navigational Risk Assessment [REP3-031]. However, this was for the whole study area, which was a large expanse of sea area. It included areas of lesser collision risk and other areas of greater risk. Whilst ExA notes that 3% is not a significant difference between the modelled collision risk with or without the DEP-N development for the whole study area, it does not provide sufficient clarity for the ExA of the change in collision risk for the Outer Dowsing Channel alone, which is the area of sea room affected by DEP-N and has led to the MCA objection.
- 12.4.40. Subsequently, the localised data was submitted by the Applicant which showed the 23% change in risk as a base case (0% traffic increase) [REP7-065]. This is considered by the ExA to be a substantial difference from existing and represents a materially greater collision risk which would, in ExA's view, provide evidence that the MCA concerns were warranted. Indeed, the MCA stated that the 23% figure confirmed its concerns [REP5-081]. These calculations which led to the 23% figure were from the Applicant and therefore would be based on the Applicant's own parameters, such as clearance distances and control depths.
- 12.4.41. In terms of the return period of likely collision incidents for these localised results, based on current traffic levels this would change from an incident every 1 in 172 years without DEP-N to 1 in 140 years (23% change) (REP7-065). This does suggest that even with the increase in collision risk there may not be a collision within the 40 year project lifetime of DEP-N. However, these figures do not mean that a collision would not occur for 140 years. A collision incident could happen soon after construction is complete. The ExA concludes that what these probability ratios confirm is that the chance of an incident occurring is substantially greater than it would be if DEP-N was not constructed up to the proposed boundaries.
- 12.4.42. The ExA acknowledges that any incidents that were to occur could be minor in nature, but this is not necessarily the case. It could result in a major incident. Furthermore, it is noted that the frequency of two or more vessels passing through this part of the Outer Dowsing Channel adjacent to DEP-N would be low, though this could increase over time if traffic levels increases, as is possible. It is also considered by the ExA that the frequency of vessels passing through this channel would have been part of the modelling that resulted in the 1 in 140 year return period for incidents, which is 23% greater than existing. Though it is acknowledged that it could

be that even with DEP-N there would be no collisions of vessels, but it must be recognised that the risk would increase considerably as a result of the Proposed Development.

- 12.4.43. There could also be safety zones imposed through the construction and decommissioning process, up to 500m from turbines for example. This would further restrict the remaining width of the channel adjacent to DEP-N, though the ExA notes that these are themselves needed for safety reasons and would be temporary in nature.
- 12.4.44. ExA have considered the all the mitigation proposed by the Applicant, including within the ES [APP-099] and in the Navigational Risk Assessment [APP-098]. This includes the embedded mitigation of internationally required compliance by vessels with the COLREGS. Following such procedures could help to enable the avoidance of a collision with evasive action being taken, but ExA are not satisfied that this can be relied upon to ensure that there would be no collision incident, due to the increased collision risk as a result of the loss of sea room adjacent to DEP-N. Indeed, as MCA have stated, the restricted sea room could restrict vessels in their ability to take early and substantial action in accordance with COLREGS [REP3-133]. Furthermore, the ExA would agree with the MCA that the fact that COLREG can help safely mitigate collision risks if applied correctly does not mean it is acceptable or reasonable to reduce the available safe sea room, especially where already restricted [REP6-026].
- 12.4.45. The Applicant has highlighted an existing example being the Race Bank Channel between Race Bank and Docking Shoal. ExA accepts that Race Bank Channel is busier and narrower than the Outing Dowsing Channel and could have greater risk of collision or grounding. ExA also acknowledges that Race Bank Channel has seen no collision or grounding incidents over the past 20 years according to the Applicant's evidence [REP3-031]. There could be reasons for this, such as the MCA stating that the Race Bank channel is used by vessels with lesser Length Overall (LOA) and of lesser draughts compared to the vessels using the Outer Dowsing Channel [REP6-027]. There are these differences, such as the proximity of wind farm arrays near Race Bank Channel also, which means that it is not fully comparable. Nonetheless, ExA considers that even if there are other examples of shipping channels where there is a high collision risk but with no incidents recorded, this is not a compelling reason to find it acceptable for a development to materially increase the risk of collision such as for Outer Dowsing Channel with the Proposed Development.
- 12.4.46. On the basis of the aforementioned factors, the ExA concurs with the MCA assessment that the encroachment of DEP-N into the Outer Dowsing Channel by approximately 0.8nm would have an unacceptable adverse impact to navigational safety and would not be mitigated to ALARP by the ES and Navigational Risk Assessment mitigation. It is accepted that all wind farm developments at sea would likely have some level of adverse impact to navigational safety and increase collision risk, but it is the degree to which such risk would increase with DEP-N which has led to these ExA conclusions.
- 12.4.47. ExA also notes that shipping in the North Sea does include vessels from other countries, including the EU nations. As such, there are potential effects on international shipping to and from UK ports if travelling through this sea area.
- 12.4.48. Both the MCA and Applicant have submitted further potential mitigation during the Examination for consideration by the ExA, if deemed necessary. The Applicant has submitted without prejudice Offshore Works Plans [REP8-004], though it is not clear from these as to the exact degree of difference from the plans originally submitted, being that it was submitted so late in the Examination leaving little time for the ExA to

consider and question. Furthermore, it is not sufficiently clear how this would affect the collision risk modelling and assessment for the Outer Dowsing Channel. The Chamber of Shipping and Trinity House accept this mitigation as sufficient, but the MCA do not. The ExA is not satisfied that this would provide sufficient mitigation to result in the collision risk being at an acceptable level and ALARP.

- 12.4.49. The MCA have recommended the need for mitigation in the form of an obstacle free zone or “exclusion area” west of the line between the Dudgeon Cardinal Buoy and Mid-Outer Dowsing Buoy [REP7-096]. This would effectively mean that the only difference between the existing situation and if DEP-N was built would be that vessels would likely set their course further from the buoys to allow clearance from the turbines. The MCA state that this would result in the safe navigable sea room of 2.2nm when a 1nm clearance distance is applied. The MCA states that this is the only mitigation which would allow for safe navigation through this channel to be maintained [REP5-081]. ExA considers that this would reduce the effects on the Outer Dowsing Channel significantly over that proposed as it would mean that there would not be the same projection of turbines within this shipping channel. This would substantially avoid the reduction of safe and available navigable sea room in an already constricted area.
- 12.4.50. Overall, this is a sea area which has sea routes of importance. The encroachment into the Outer Dowsing Channel would result in an unacceptable risk to navigational safety. Considering the suggested mitigation from the parties, the Applicant’s amendments to the Works Plans would be beneficial but the ExA is not satisfied that it would be sufficient mitigation so that negative impacts would be ALARP, as the Applicant does not appear to provide the sea space the MCA has advised is necessary. The ExA would therefore rely on the MCAs proposed mitigation for the obstacle free zone west of the buoys, to ensure sufficient sea room so that the impact to navigational safety would be minimal and to an acceptable level. The ExA would then be satisfied that the negative impacts would then be mitigated to an ALARP level with the remaining proposed embedded and additional mitigation proposed by the Applicant, for all vessels using the Outer Dowsing Channel, both domestic and foreign.
- 12.4.51. The ExA therefore concludes that the impact of the Proposed Development on the sea room and navigational safety is significantly adverse. Consequently, the ExA agrees with the MCA’s assessment that if there was an obstacle free zone (free of any Proposed Development infrastructure) as indicated by the MCA this would mitigate that adverse effect and there would only remain minor adverse impacts to navigational safety through the loss of sea room.
- 12.4.52. The ExA recommends amending the wording from that suggested by MCA. Firstly, the coordinates for the NE corner and the SE corner are switched. This was because as the MCA version appeared to have the NE corner to the south of the SE corner coordinates. Furthermore, the MCA recommended wording referred to Works plans/numbers, but it is considered by the ExA that offshore works would cover all the different scenarios (which are by reference to different Works numbers depending on the different scenarios) and therefore obviates the need to list of the works in terms. The definition of offshore works also refers to the specific Works numbers under the different scenarios.
- 12.4.53. The ExA has recommended the inclusion of the following provision in the Recommended Development Consent Order (rDCO):

None of the infrastructure of any type including within the offshore works, including wind turbine generators and offshore substation platforms, shall

~~listed in Work No.***~~ may be installed within the area defined by the coordinates as specified below and no part of any wind turbine generator, including its blades, may overfly into the area:

Point ID of the area	Latitude (D°M.MM')	Longitude (D°M.MM')
A (NW corner)	53° 21.1541' N	1° 10.1853' E
B (SW corner)	53° 19.0449' N	1° 12.3327' E
C (NE corner)	53° 19.5696' N <u>53° 21.1558' N</u>	1° 13.6102' E <u>1° 11.8346' E</u>
D (SE corner)	53° 21.1558' N <u>53° 19.5696' N</u>	1° 11.8346' E <u>1° 13.6102' E</u>

- 12.4.54. The ExA has included this as Condition 25 of all the dDMLs Schedules. Additionally, the ExA has also included the same drafting as a requirement in the rDCO at R35. The ExA considers this to be necessary because while dDMLs are schedules in the dDCO, if consent is granted, they are simply deemed by the DMO, rather than being applied for direct to and granted by the MMO. Post-consent dDMLs become for practical purposes freestanding licenses just as the DCO would be a freestanding statutory Order.
- 12.4.55. It is recommended that the Applicant and MCA are consulted on the wording and inclusion of this Requirement/Conditions, as this wording has been proposed by the ExA after the close of Examination. Furthermore, if this Requirement/ Conditions are imposed the SoS would need to request the revised Works Plans from the Applicant
- 12.4.56. The ExA also welcomes and recommends the inclusion of the other mitigation also, as set out by the Applicant in the ES [APP-099] and NRA [APP-198] and secured within the rDCO and rDMLs, along with the Schedule of Mitigation and Mitigation Routemap (Revision B) [REP8-021].
- 12.4.57. Due to its late submission in the Examination process, coming in at the final deadline (D8), the ExA recommends that the SoS should consult the Applicant on the submission by the MCA [REP8-093].

Search and Rescue

- 12.4.58. As acknowledged by the Applicant in the ES [APP-099] the construction traffic associated with the proposed development would lead to an increased number of vessels and personnel in the study area, and as such there may be an increase in the number of incidents requiring emergency response. However, incident rates in the ES study area are low and the Applicant states that SEP and DEP would not notably increase incidents.
- 12.4.59. As required under Marine Guidance Note (MGN) 654, the Applicant would produce and submit an ERCoP to the MCA detailing how it would cooperate and assist in the event of an incident. This is secured through the dDML conditions under Offshore Safety Management. The Applicant in the ES [APP-099] states that the impacts on emergency response is assessed as being tolerable with embedded mitigation. This mitigation includes compliance with MGN 654 and its annexes, which incorporates a Search and Rescue Checklist. The impact is therefore minor adverse in EIA terms for both SEP or DEP in-isolation, or for the development of both SEP and DEP.
- 12.4.60. The MCA on the issue of emergency response along with search and rescue stated that the presence of wind farms will increase the likelihood of the requirement for emergency response, not just from navigational incidents but from other incidents such as medical evacuation or pollution. The MCA stated that it would expect that the

Applicant would provide communication and identification technology capabilities to the MCA with direct access to HM Coastguard systems. The MCA in its response to ExA WQ1 [PD-010, Q1.19.2.1] stated that the necessary commitments to enable safe and practical Search and Rescue (SAR) operations would be discussed and agreed with the applicant post-consent. This would include completion of a SAR checklist as per MGN-654 Annex 5 and a site-specific ERCoP [REP1-118]. This is secured through the Offshore Safety Management Condition, which is Condition 16 of Schedule 10, Condition 16 of Schedule 11, Condition 15 of Schedule 12, and Condition 15 of Schedule 13 of the Draft DCO (Revision K) [REP8-005].

ExA's Reasoning

- 12.4.61. The ExA acknowledges that a wind farm development would have to take into account both emergency response and also Search and Rescue. Currently, there is no set layout for the array of turbines in the Proposed Development, but the Applicant and MCA understand that this would have to be agreed post-consent along with the Search and Rescue checklist and ERCoP. This is secured with the Offshore safety management Conditions of the dDMLs, the ExA is satisfied that the Proposed Development would not impinge materially on search and rescue or emergency responses.

12.5. CONCLUSIONS

- 12.5.1. It is the conclusion of the ExA that there is no significant impact as a result of sea room or navigational safety other than at the Outer Dowsing Channel, adjacent to DEP-N. The encroachment of DEP-N into this channel would have a direct impact on navigational safety. The ExA is persuaded by the arguments of the MCA that a 1nm clearance from a wind farm is reasonable and that the evidence demonstrates that use of the 15.3m wreck as a controlling depth is also appropriate. This means that the ExA broadly accepts the MCA calculations that vessels would be constricted into a channel approximately 1.3NM wide, with this being a reduction calculated by the MCA of 58% from the current navigable sea room. Using the Applicant's own calculations on collision risk localised for the Outer Dowsing Channel, being a 23% increase in such risk, leads the ExA to conclude that a narrowing of the channel would result in unacceptable navigational safety impacts and would not be ALARP.
- 12.5.2. NPS EN3 in Paragraph 2.6.147, 2.6.165 and 2.6.163 requires the Applicant to ensure the safety of shipping, to ensure that negative effects of the Proposed development would be minimised to ALARP, and clearly states that wind farms should not be consented where they would pose unacceptable risks to navigational safety after mitigation measures have been adopted.
- 12.5.3. In considering these policies of NPS EN3, the ExA cannot confirm that the proposed development would not pose an unacceptable risk to navigational safety, even with the embedded and additional mitigation proposed within the ES. The loss of sea room as a result of DEP-N would, as advised by the MCA, would pose an unacceptable risk to navigational safety. Though not a route essential to international navigation, it is of strategic importance, and the ExA has concluded that the adverse effects would not be reduced to ALARP. The proposal is therefore in conflict with these NPS EN3 Paragraphs 2.6.147, 2.6.165 and 2.6.163.
- 12.5.4. The further mitigation submitted without prejudice by the Applicant [REP7-065], with the Offshore Works Plans (without prejudice) [REP8-004], falls short of what is required to address the conflict with NPS policy. However, the ExA is persuaded that the mitigation as advised by the MCA, being the obstacle free zone west of the line between the two buoys [REP5-081] would be sufficient to reduce the adverse effects to an acceptable level. This further requirement is included in the rDCO. If the SoS

accepts the inclusion of R35 and corresponding conditions, then it is ExAs view that the risk to navigational safety would be ALARP and that the aforementioned NPS paragraphs 2.6.147 and 2.6.163 would be met, together with Policies PS2 and PS3 of the East Inshore and East Offshore Marine Plans.

- 12.5.5. It is recommended by the ExA to consult with the Applicant and MCA on the final wording of the additional condition. Furthermore, revised Works Plans would be necessary from the Applicant to reflect the restrictions.
- 12.5.6. However, if the If the SoS does not accept the proposed R35 in the rDCO and C25 in the rDMLs, then the ExA must conclude that the policy requirement of NPS EN3 Paragraph 2.6.165 is not met.
- 12.5.7. With the Offshore Safety Management Condition in the rDCOs, there are no concerns from the ExA that the proposed development would impinge in any significant or unacceptable way on search and rescue operations or any other sort of emergency response, thereby being in accordance with NPS EN3 (Paragraph 2.6.164).
- 12.5.8. The ExA acknowledges that the proposed development, particularly at DEP, would increase transit times for shipping operators. However, the ExA is persuaded by the argument made by the Applicant [APP-099] that the worst-case would be an approximate 4% increase in journey times, but it would not be significant. On this matter the proposal would be in accordance with the NPS EN3 (Paragraph 2.6.162).
- 12.5.9. To conclude overall, the ExA is more persuaded by MCA's conclusions on navigational safety. With the steps that have been taken with the inclusion of the additional Condition/Requirement for the obstacle free zone in the rDCO to mitigate the adverse effects of the Proposed Development, the ExA is of the view that shipping and navigation would have a minor weight against the making of the Order in any scenario.
- 12.5.10. However, should the SoS reach a different view and not include the additional Condition/Requirement to prevent the encroachment of infrastructure within the Outer Dowsing Channel, then the ExAs view is that Shipping and Navigation would carry substantial weight against the making of the Order in any Development Scenario where DEP North is developed.

13. CIVIL AND MILITARY AVIATION

13.1. BACKGROUND AND POLICY CONTEXT

13.1.1. Civil and military aviation was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on radar and defence interests and the need to address any impacts on the air defence system.

13.1.2. Matters relating to helicopter access to offshore installations are addressed in Chapter 14 of this Recommendation Report.

National Policy Statement (NPS)

13.1.3. The assessment for Civil and Military Aviation is set out in the Overarching National Policy Statement for Energy (NPS EN1) and the National Policy Statement for Renewable Energy Infrastructure (NPS EN3). The National Policy Statement for Electricity Networks Infrastructure (NPS EN5) is also of relevance.

13.1.4. For this subject, NPS EN1 requires from the Applicant:

- to provide an assessment of potential effects of the proposed development on civil or military aviation and/or other defence assets, in consultation with the Ministry of Defence (MoD), the Civil Aviation Authority (CAA), National Air Traffic Services (NATS) and any aerodrome, licensed or otherwise (NPS EN1, Paragraph 5.4.10, 5.4.11); and
- that any assessment of aviation or other defence interests should include potential impacts of the project on its own, or cumulatively with other relevant projects upon the operation of communication, navigation and/or surveillance system infrastructure, flight patterns (both civil and military), other defence assets and aerodrome operational procedures (NPS EN1, Paragraph 5.4.12).

13.1.5. In reaching a decision the Secretary of State (SoS) should be satisfied that:

- the safety of United Kingdom (UK) aerodromes, aircraft and airspace is not adversely affected by new energy infrastructure [NPS EN1, Paragraph 5.4.2];
- the Proposed Development has been designed to minimise adverse impacts on the operation and safety of aerodromes, that reasonable mitigation is carried out, and in the case of military aerodromes to have regard to interests of defence and national security (NPS EN1, Paragraph 5.4.14);
- where lighting of tall structures is requested that goes beyond statutory requirements by any of the relevant aviation and defence consultees the SoS should be satisfied that such lighting has been taken into account [NPS EN1, Paragraph 5.4.16]; and
- where, after reasonable mitigation, operational changes, obligations and requirements have been proposed, the development would not prevent a licensed aerodrome from maintaining its licence; the benefits of the proposed development are not outweighed by the harm to aerodromes serving business, training or emergency service needs, taking into account the relevant importance and need for such aviation infrastructure; the development would not significantly impede or compromise the safe and effective use of defence assets or significantly limit military training; and the development would not have an impact on the safe and efficient provision of en-route air traffic control services for civil aviation, in particular through an adverse effect on the infrastructure required to support communications, navigation or surveillance systems [NPS EN1, Paragraph 5.4.17].

Other Legislation and Policies

- 13.1.6. Other legislation, policies and guidance relevant to the Proposed Development are set out in the Environmental Statement (ES) [APP-101, Section 15.4.1.2] and in Chapter 3 of this Recommendation Report. This includes CAA CAP 393: The Air Navigation Order 2022 (CAA, 2022), which relates to air navigation matters and regulations. CAP 393 also relates to aviation obstruction lighting for wind turbines in UK territorial waters [APP-101, Paragraph 15.4.1.3].
- 13.1.7. The National Planning Policy Framework 2021 (NPPF 2021) is a relevant consideration for Nationally Significant Infrastructure Projects (NSIP) development proposals in respect of the Chapter 9 – Sustainable Transport, in particular Paragraph 106 f), which states that planning policies should recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy.

13.2. THE APPLICATION

Environmental Statement

- 13.2.1. The Applicant’s assessment of the Civil and Military Aviation is set out in the ES in Chapter 15 – Aviation and Radar [APP-101], with associated figures for this chapter [APP-127]. Other application documents that are relevant include Appendix 15.1 - Technical Report including Radar Line of Sight Images [APP-202] and Appendix 15.2 - Surveillance Minimum Altitude Chart Analysis [APP-203].

Scope and Methodology

- 13.2.2. In terms of the study area for aviation and radar, the Applicant has set this on the basis of CAA CAP 764 (Policy and Guidance on Wind Turbines) consultation zones and criteria. This provides criteria for assessing whether any wind turbine development might have an impact on civil aerodrome related operations [APP-101, Section 15.3.1, Paragraph 9].
- 13.2.3. As set out by the Applicant, the study area encapsulates the airspace between the wind farm sites, the UK mainland from Norwich Airport and military radar equipped aerodromes which are capable of detecting the Proposed Development, including Royal Airforce (RAF) Marham, the Cromer Primary Surveillance Radar (PSR), Trimmingham Air Defence Radar (ADR) to the south, the Brizlee Wood ADR to the north and the NATS Claxby PSRs located to the west and northwest onshore. RAF Neatishead has also been included in the assessment [APP-101, Section 15.3.1, Paragraph 13].
- 13.2.4. The ES [APP-101] stated that the key elements of the consultation prior to the ES included scoping, the ongoing Evidence Plan Process, the Preliminary Environmental Information Report and focused consultation with aviation and radar stakeholders.
- 13.2.5. Potential impacts highlighted in the ES [APP-101] include:
- creation of an obstacle to fixed wing and rotary aircraft operating offshore;
 - interference to the RAF Weybourne Transmitter;
 - wind turbines causing permanent interference on civil and military radar systems;
 - disruption to aircraft using Helicopter Main Routes; and
 - impact to Air Traffic Control Surveillance Minimum Altitude Chart (ATCSMAC) and Minimum Safe Altitude (MSA).

- 13.2.6. These are assessed against what is considered worst-case scenarios, based on the potential Development Scenarios for the Proposed Development. As set out by the Applicant, in the case of the civil and military aviation, sequential development is considered to be the worst-case scenario for all impacts [APP-101, Section 15.3.2.2, Paragraph 23].
- 13.2.7. A cumulative effects assessment has also been undertaken as part of the ES [APP-101, Section 15.7]. This considered the residual impacts assessed for SEP and/or DEP which on their own have the potential for a cumulative impact with other plans, projects and activities. Other projects within 100km (the maximum range where radar cumulative effect may occur) of SEP and DEP are considered for the effect of wind turbines causing interference on radar systems. Other projects within 40km of SEP and DEP are considered for the effect of creating an obstacle to fixed and rotary wing aircraft operating offshore [APP-101, Paragraph 158].

13.3. APPLICANT'S ASSESSMENT OF EFFECTS AND PROPOSED MITIGATION

- 13.3.1. The Applicant's proposed embedded mitigation which are relevant to the issue of aviation effects and are summarised in the ES [APP-101, Section 15.3.3, Table 15-3]. This includes the layout and regularity of the wind farm, use of lighting and marking, for above ground infrastructure to be within safeguarding requirements for RAF Weybourne, and notification to the Defence Geographic Centre of wind turbines to allow for inclusion on aviation charts.
- 13.3.2. The Applicant's proposed additional mitigation includes addressing the interference with radar, such as through blanking techniques and to raise the ATCSMAC and MSA, with further sectorisation proposed as a possible solution, with commercial agreements where necessary.
- 13.3.3. The embedded and additional mitigation measures of the ES [APP-101] are set out in dDML conditions (Schedule 10, Part 2, conditions 8, 10, 13 and 16; Schedule 11, Part 2, conditions 8, 10, 13 and 16; Schedule 12, Part 2, conditions 7, 9, 12 and 15; and Schedule 13, Part 2, conditions 7, 9, 12 and 15.). These conditions include the requirement for aids to navigation, aviation safety measures, and offshore safety management (including reference to MGN 654), for example. There are also R27 (Ministry of Defence Surveillance Operations) and R28 (Cromer and Claxby Primary Surveillance Radar) of the dDCO Schedule 2, Part 1.
- 13.3.4. In the Applicant's assessment the residual effects would be no more than minor adverse impact or less, following consideration of both embedded and additional mitigation measures, for any phase or Development Scenario of the Proposed Development or when considered cumulatively with other projects/ infrastructure, for example [APP-099, Table 15-15]. The Applicant concludes that additional mitigation would be required for the operational phase for the impacts of wind turbines on civil and military radar system interference and for the impact on ATCSMAC and MSA for Norwich Airport.

13.4. LOCAL IMPACT REPORTS (LIR)

- 13.4.1. There is no substantive reference to Civil and Military Aviation Matters within any of the LIRs.

13.5. THE EXAMINATION

- 13.5.1. Firstly, it is noted that the baseline environment and the assessment methodology relating to aviation matters were agreed in final Statements of Common Grounds

(SoCGs) with both Norwich Airport [REP8-047] and the Ministry of Defence [REP7-098].

13.5.2. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on are:

- 1) the impact of the Proposed Development on civil aviation radar and aviation safety;
- 2) the Impact of the Proposed Development on Norwich Airport; and
- 3) the Impact of the Proposed Development on Defence Aviation.

The Impact of the Proposed Development on Civil Aviation Radar and Aviation Safety

13.5.3. NATS noted that both the existing Dudgeon Offshore wind farm (DOW) and Sheringham Shoal Offshore wind farm (DOW) lie within the Greater Wash Transponder Mandatory Zone (TMZ) and the entirety of the proposed extensions do not. This TMZ was created in 2012 to negate the impact of increasing levels of wind turbine generated PSR clutter [RR-062]. NATS [AS-043] stated it anticipated an impact upon its infrastructure and its operation from the Proposed Development, and as such has objected to the development. However, NATS confirmed that it had identified and defined a technical mitigation for this site and was engaged with the Applicant in respect of securing the necessary contractual agreement to secure the implementation of this mitigation. NATS confirmed that would maintain its objection, until the agreement is reached with the Applicant.

13.5.4. The ExA requested updates throughout the Examination from the Applicant, NATS, CAA and Norwich Airport, where applicable [PD-010, Q1.4.2.2] [PD-012, Q2.4.1.2] [PD-017, Q3.4.1.2] and [PD-021, Q4.4.1.1]. The Applicant provided updates [EV-034], [EV-085] and [EV-089] and demonstrated [REP3-101], [REP5-049] and [REP7-065], that there was continuous engagement with NATS and also Norwich Airport on the matter of civil aviation radar. The Applicant also stated that the Mitigation and Services Contract for the Project was then with NATS for a second review and the Applicant had no reason to believe that an agreement is not forthcoming.

13.5.5. The ES [APP-101] stated that theoretically the operational wind turbines of the Proposed Development would all be highly likely to be detectable by the NATS Claxby and Cromer PSRs. The operation of SEP and DEP either in-isolation or together would have a detrimental effect to these radar systems. Furthermore, the Norwich Airport PSR would theoretically detect turbines within SEP and DEP to varying degrees, with SEP having the greatest effect to radar systems due to its location closer to onshore radar systems. The ES [APP-101, Paragraph 115] explains that wind turbines can be detectable on radar systems. If so, they would degrade the system by creating false targets, reduce system sensitivity, creating radar shadowing behind the wind turbines and saturating the radar receiver. This clutter would have potential to conceal real aircraft targets leading to a loss of situational awareness by controllers.

13.5.6. In terms of mitigation, the ES [APP-101, Paragraph 123] suggests the intention to remove impacts from SEP and DEP on the Claxby and Cromer PSRs. The mitigation would require two stages – blanking of the affected radar systems; and an application to the UK regulator (the CAA) to establish a TMZ. An extended or a new TMZ could be used to increase aviation safety in a complex area such as the North Sea area around the Proposed Development. Mitigation of the NATS PSR assets impacted by SEP and DEP would also mitigate the radar impact to its end users of the data including Anglia Radar, which includes helicopters supporting offshore oil and gas industry platforms.

- 13.5.7. During the Examination, the Applicant has also stated that NATS was seeking to blank the turbines at SEP and DEP as well as establish a new TMZ, which would involve an application to the CAA [REP3-101].
- 13.5.8. The Applicant stated Applicant and NATs were close to reaching an agreed position on the mitigation services agreement which included agreed wording for Requirement (R) 28 which has been included in the dDCO [REP8-005]. R28 would limit the Applicant's ability to build/erect the turbines until a primary radar mitigation scheme is agreed with the operator and approved by the SoS in order to avoid the impact of the development on the primary radar of the operator located at Claxby and Cromer and associated air traffic management operations. R28 would also limit that Applicant's ability to erect the turbines until such a scheme has been implemented and operated fully in accordance with the approved scheme.
- 13.5.9. While NATs would maintain its holding objection until the Applicant and NATs had completed the relevant agreements outside of the Examination process, both parties were confident that this would be resolved soon after the close of Examination with an update to be provided to the SoS at decision stage which stated: *"The following update has been agreed between the Applicant and NATs: The Applicant and NATs are very close to reaching an agreed position on the mitigation services agreement with little difference between the parties. Agreed wording for the mitigation requirement (Requirement 28) has been included in the DCO (Revision K) [document reference 3.1]. Until the Applicant and NATs have completed the relevant agreements, NATs will maintain their holding objection, but the parties are confident that this will be resolved soon after the close of Examination with an update to be provided to the Secretary of State at decision stage."* [REP8-069].
- 13.5.10. There was nothing received directly from Norwich Airport throughout the Examination other than the Statements of Common Ground (SoCG) with Norwich Airport [REP3-118] [REP5-047] [REP7-058] and [REP8-047]. In the final SoCG [REP8-047] Norwich Airport stated that the Proposed Development would theoretically be detectable by the NATS Cromer and Claxby PSR, both of which are used by Norwich Airport as a backup to the on-site PSR. Norwich Airport also state that any mitigation agreed with NATS has to be acceptable to Norwich Airport and would be agreed through the NATS issued documentation.

ExA Reasoning

- 13.5.11. The ExA is relying to three key bits of evidence to arrive at a conclusion in matters relating to aviation safety.
- 13.5.12. First, the ExA considers that whilst there has been progress in the negotiations between the Applicant and NATS, at the end of the Examination the objection from NATS remained as there is no fully agreed mitigation to address the impact of SEP and DEP on the PSRs at Cromer and Claxby. As set out in the ES [APP-101], without mitigation there would be a major adverse impact. The radar clutter as a result of the height of the proposed turbines would have an adverse impact on aviation safety.
- 13.5.13. Second, NATS has, while maintaining its objection, confirmed that it has identified and defined a technical mitigation for this site. NATS also confirmed that it is currently engaged with the Applicant to enter into a contractual agreement to secure the implementation of this mitigation. The ExA is relying on the progress made in the negotiation and the positive engagement between the Applicant and NATS throughout the Examination, demonstrated through the positive language in what the Applicant described as an agreed update with NATS.

- 13.5.14. Third, the ExA is reassured by the provision secured in the dDCO at R28, that limits the Applicant's ability to build/erect the turbines until a primary radar mitigation scheme is agreed, implemented and operated in accordance with the approved scheme.
- 13.5.15. Despite the holding objection from NATS, the ExA finds that the progress made through the Examination and the positive language used by NATS is indicative that mitigation has been identified and it is only the contractual matters that are pending. The ExA is confident of a positive outcome and agreement on a suitable mitigation is highly likely within a reasonable timescale which would remove NATS objections. As such, the ExA concludes that there would be no adverse effects on civilian radar or aviation safety.
- 13.5.16. ExA also note that there was no objection from Norwich Airport on this matter in the Final SoCG. Norwich Airport did, though, state that any mitigation agreed with NATS has to be acceptable to Norwich Airport and would be agreed through the NATS issued documentation [REP8-047].
- 13.5.17. Additionally, even if there is a time delay or other impediment in the Applicant reaching an agreement with NATs, the ExA is reassured by the drafting for R28 in the dDCO, which is understood to be agreed with NATS, and would prevent any impact to civilian aviation radar operations before appropriate mitigation has been agreed with the operator and approved by the SoS.
- 13.5.18. As there is no final agreement with NATS, and therefore there did remain the objection from NATS at the close of Examination, the ExA recommends that the SoS consult with NATS to ascertain whether the NATS objection has been removed and any comments on R28 and other relevant rDML conditions.

Effect on Norwich Airport (ATCSMAC and MSA)

- 13.5.19. In the draft SoCG at D3 with the Applicant [REP3-118], Norwich Airport stated that the proposed wind farm extensions at Sheringham and Dudgeon South would impact both the ATCSMAC and the Minimum Safe Altitude (MSA). Norwich Airport then stated that further analysis would be required to establish the impact of any change to the ATSMAC or MSA on the Norwich Airport Instrument Flight Procedures (IFPs). This could be necessary due to the heights of the wind turbine generators of this Proposed Development.
- 13.5.20. The ExA noted that Norwich Airport were setting out that the MSA could need to be raised due to the proximity of the Proposed Development to the airport. From the SoCG [REP3-118] the ExA understood that this appears to be an involved process, as it may require amendments to sectors of aviation charts near the Proposed Development, which would require CAA approval.
- 13.5.21. There was concern raised with the pre-application consultation from helicopter operators [APP-101, Table 15-1], which ExA have been made aware of, but no concerns or objections were raised throughout the Examination.
- 13.5.22. Paragraph 106 of the ES [APP-101] explains that pilots would be flying above the MSA, using on board radar to detect obstructions and be under the control of Air Traffic Control (ATC) with an appropriate level of radar service, such as when there was restricted visibility. As such, the MSA is there for safety reasons.
- 13.5.23. This was explained further by the Applicant with the submitted Instrument Flight Procedures Assessment for Norwich Airport (Revision B) [REP8-050], which

undertook a check of the published Instrument Flight Procedures (IFPs) including the ATCSMAC for Norwich Airport in relation to the Proposed Development. The ATCSMAC is linked to the Minimum Safe Altitude (MSA), which is explained as being established for each aerodrome and provide at least 300 metres (m) (1000 foot (ft)) obstacle clearance within 25 nautical miles (nm) (plus 5nm buffer) from its centre near Norwich Airport.

- 13.5.24. This document [REP8-050] found that the Proposed Development would impact Norwich Airport's MSAs. This is due to the potential height of the turbines, which would likely mean an increase to this minimum altitude level. The Applicant's document [REP8-050] sets out that a standard 300m Minimum Obstacle Clearance would need to be added to the potential blade tip elevation of 330m. This would be included in the calculation for the resultant Minimum Obstacle Clearance Altitude. The Airport is surrounded by four sectors, with the Proposed Development effecting the Northeast and Northwest MSA sectors. These sectors would need to have a minimum altitude of 630m or 2067ft, which would be rounded up to 2100ft for CAA publications. This is a rise from the current 1700ft in the northwest sector and from the current 1600ft in the northeast sector.
- 13.5.25. As such, in poor visibility conditions the increased MSA and associated ATCSMAC could force helicopters to climb altitude over the wind farm arrays, but in colder periods there could then be the threat of icing. Alternatives to flying over the wind farms may then be necessary with diversions needed.
- 13.5.26. To minimise the need for any change, the Applicant [REP8-050] stated it may be possible to further sectorise the existing sectors. This means that instead of four sectors, this is split further so that only smaller sectors are affected by the Proposed Development with the associated rise in minimum altitude. For example, much of the northern sectors would remain the same as existing for their minimum altitudes, but there would be a smaller sector nearest SEP and DEP which would have the higher 2100ft minimum. However, the Assessment points out that these existing sectors use cardinal points, and any change would have to be agreed by the CAA, though there is no known example where non-cardinal MSAs are used. There has been no comment from the CAA throughout the Examination. Also, the Applicant states there could be commercial agreements, where significant diversions are necessary [APP-101, Paragraph 146].
- 13.5.27. Even though submitted at D8, Norwich Airport responded to the Flight Procedures Assessment for Norwich Airport (Revision B) [REP8-050] in its Final SoCG [REP8-047] with the Applicant. Norwich Airport stated that to allow the continuation of the current level of service an operational amendment of the ATCSMAC dimensions would be favourable. Norwich Airport also stated that an amendment to an ATCSMAC is subject to CAA approval, though any amendments to the MSA and/or ATCSMAC would need to be implemented once the Applicant confirms the height of turbine tips to be installed in SEP and DEP.
- 13.5.28. The Final SoCG from Norwich Airport [REP8-047] had the position regarding the MSA and ATCSMAC as agreed. There were no comments from any other IPs on this matter throughout the Examination period. As this SoCG and the Flight Procedures Assessment for Norwich Airport (Revision B) [REP8-050] were received at the final deadline (D8) no further evidence or representations could be requested.
- 13.5.29. However, the ExA reviewed the ES material and noted that such changes to the ATCSMAC and MSA for Norwich Airport could affect helicopter operators. The ES explained [APP-101, Paragraph 146] that in order to meet the required obstruction avoidance (2,100 ft for the extension areas), in certain weather conditions, flights in

Instrument Meteorological Conditions may be required in increased altitudes and subject the aircraft to icing conditions. The Applicant set out that after mitigation such as potential commercial agreements and further sectorisation of the MSA sectors then the residual impact on aviation due to potential changes to the MSA and ATCSMAC was considered in the ES as minor adverse at worst-case [APP-101, Section 15.6.2.4].

13.5.30. ExA notes that in the Schedule of Mitigation and Mitigation Route Map it states that consultation with the airport and helicopter operators is ongoing for an agreement by the airport to increase the level of the MSA/ ATCSMAC minima [REP8-021].

13.5.31. There was no objection raised with regards this issue from any helicopter operators, the CAA or NATS during the Examination.

ExA's Reasoning

13.5.32. Based on the ExA's assessment of information in the SoCGs, Flight Procedures Assessment for Norwich Airport and the ES, The ExA can make the following assessments.

13.5.33. Firstly, given that turbine heights are needed to ascertain if and to what extent the MSA and associated ATCSMAC changes would be required, this would be a matter to be determined post-consent and at the detailed design stage.

13.5.34. Secondly, given than no person or organisation raised an objection, it would appear that the matter is one for agreement privately outside of the DCO process.

13.5.35. Thirdly, given the matter was not raised in Examination or tested, and given the agreed status of the SoCG between Norwich Airport and the Applicant [REP8-047] the ExA does not find it reasonable to conclude on this issue in any other way than to accept the conclusion of minor adverse impact attributed to this matter in the ES [APP-099, Section 15.6.2.4].

13.5.36. If, however, the SoS is uncomfortable with the level of uncertainty, then the ExA recommends that the SoS explores the matter further before determining the Application. ExA would recommend that the SoS may wish to request the following:

- 1) a joint statement between the Applicant, CAA and Norwich Airport to set out next steps, along with timescales and risks;
- 2) seek representations from the CAA as to whether there is any chance that approval for the change in MSA/ATCSMAC sectorisation is not given;
- 3) joint statement from the Applicant and Norwich Airport with an assessment of civil aviation safety if CAA's approval is not forthcoming;
- 4) request for representations to helicopter operators if they perceive any related safety issues or provide updates on private agreements; and
- 5) consider including a provision in the rDCO to ensure matters are agreed before the parts of the Proposed Development that would affect the MSA commences.

Aviation Defence Effects

13.5.37. The MOD Safeguarding Department through the Defence Infrastructure Organisation (DIO) set out that the Proposed Development had the potential to impact, through the landfall and associated works, the operation of a technical asset sited at RAF Weybourne [REP1-120]. The Applicant provided additional information to the DIO early in the Examination that allowed the MOD to better understand the relevant works including the duct stringing/ welding operation at landfall. The MOD was then in a position to withdraw the objection relating to the impact of the development on

the operation and capability of technical assets deployed at RAF Weybourne [REP1-119].

- 13.5.38. The DIO also raised objections to the Proposed Development relating to Air Defence Radar. DIO explained that the Proposed Development would be sited approximately 18.7km from Remote Radar Head (RRH) Trimingham, approximately 34.5km from RRH Neatishead, and would be visible to radar systems deployed at both sites. The DIO stated that wind turbines have been shown to have detrimental effects on the operation of air defence radar, including the desensitisation of the radar in the vicinity of wind turbines, and the creation of false aircraft returns. This could result in a reduction of the RAF's ability to detect and manage aircraft in UK sovereign airspace, thereby preventing it from effectively performing its primary function of Air Defence of the UK [REP5-082].
- 13.5.39. Throughout the Examination there was negotiations between the DIO and the Applicant, and the MOD/DIO were able to confirm that the Applicant has made additional submissions that allow the MOD to remove the objection relating to unacceptable impact on the operation and capability of Air Defence radar systems. This was subject to the inclusion of a Requirement in the dDCO to secure appropriate mitigation of impacts on MoD Surveillance Operations [REP7-097]. The Applicant accepted the drafting, and it was included in the dDCO at R27 [REP8-005].
- 13.5.40. With the agreed wording for R27, DIO set out that the version at D5 removed reference to RRH Trimingham whilst retaining the requirement to prevent or remove any adverse effects which the authorised development would have on the air defence radar(s) at RRH Neatishead. The Applicant therefore amended the dDCO so that there was only reference to RHH Neatishead in R27 [REP7-079].
- 13.5.41. The Applicant confirmed that all matters between the parties were agreed [REP8-074]. Furthermore, there was a final SoCG between the Applicant and the MOD/DIO which agreed all points, including the wording of the necessary Requirements and Conditions [REP7-046] [REP7-098].

ExA's Reasoning

- 13.5.42. The ExA takes into account that there have been agreements between the parties, no objections remain from the DIO/MOD, and the agreed wording for R27 is included in the rDCO which would prevent any adverse effects of the Proposed Development on the air defence radar(s) at RRH Neatishead, and the MoDs air surveillance and control operations. On this basis, the ExA is satisfied that the Proposed Development would have no adverse effects on defence aviation and safety.

13.6. CONCLUSIONS

- 13.6.1. There remained the NATS objection at the end of Examination, but the ExA relies on the submission from the Applicant and NATS suggesting an agreement and the withdrawal of the NATS objection is forthcoming. The ExA relies more heavily on R28 of the dDCO [REP8-005] which sets out that there needs to be agreed mitigation prior to development of any wind turbine generator. Additionally, even if there is a time delay or other impediment in the Applicant reaching an agreement with NATs, the ExA is reassured by the drafting for R28 in the dDCO, which it is understood as being agreed with NATS, and would prevent any impact to civilian aviation radar operations before appropriate mitigation has been agreed with the operator and approved by the SoS.
- 13.6.2. Assuming that the withdrawal of NATS objection is forthcoming, and in considering R28, ExA can conclude that on the issue of aviation radar the Proposed Development

meets with the policy requirements of NPS EN1, including Paragraphs 5.4.2 and 5.4.17 in that the development would not have an impact on the safe and efficient provision of en-route air traffic control services for civil aviation.

- 13.6.3. To conclude, with the R28 in place and given the progress between NATS and on an agreement with the Applicant the ExA considers that there would be no adverse impact on civilian radar. It is, though, recommended that the SoS should consult with NATS on the status of its objection before determining the application.
- 13.6.4. With regards to the need to raise the ATCSMAC/MSA minima for Norwich Airport the ExA notes that there was limited information in the Examination and matters are agreed between the Applicant and Norwich Airport. The ExA also acknowledges that there is no objection from Norwich Airport or helicopter operators relating to this matter through the course of the Examination. The ExA considers that the raising of the MSA and associated changes to the ATCSMAC would affect aircraft, particularly helicopters, and so concludes that this would have a minor adverse effect to aviation [APP-101, Section 15.6.2.4].
- 13.6.5. If the SoS wished to explore this matter further they may wish to require/undertake consultation with the Applicant, the CAA and Norwich Airport. This consultation could request the following or provide comments on:
- 1) require a joint statement between the Applicant, CAA and Norwich Airport to set out next steps, along with timescales and risks;
 - 2) seek representations from the CAA as to whether there is any chance that approval for the change in MSA/ATCSMAC sectorisation is not given;
 - 3) require a joint statement from the Applicant and Norwich Airport with an assessment of civil aviation safety if CAA's approval is not forthcoming;
 - 4) request representations to helicopter operators if they perceive any related safety issues or provide updates on private agreements; and
 - 5) inclusion of a provision in the rDCO to ensure matters are agreed before the parts of the Proposed Development that would affect the MSA commences.
- 13.6.6. Based on the evidence before the ExA, the Proposed Development would not have significant impacts on the operation and safety of Norwich Airport (NPS EN1, Paragraphs 5.4.2 and 5.4.14). However, as set out in the ES [APP-101, Section 15.6.2.4], there would be some minor adverse impact on civilian aviation through the potential need to increase the MSA and amend the ATCSMAC for Norwich Airport, particularly impacting helicopters that may need to divert around the wind farms in certain weather conditions.
- 13.6.7. For defence aviation, taking into account MOD has withdrawn its objection to the Proposed Development, and the DIO/MOD's proposed wording for R27 is included in the rDCO, the ExA is satisfied that, the Proposed Development would have no adverse effects on defence aviation and safety. As such the ExA can conclude that the policy requirements of NPS EN1 Paragraphs 5.4.2, 5.4.14 and 5.4.17 are met.
- 13.6.8. Overall, the ExA consider that the assessment of these issues results in a conclusion that the issues in this chapter carry a minor level of weight against the making of the Order for all development scenarios, due primarily to the potential need to increase the MSA and amend the ATCSMAC for Norwich Airport.

14. OIL, GAS, AND OTHER OFFSHORE INFRASTRUCTURE AND ACTIVITIES

14.1. BACKGROUND AND POLICY CONTEXT

14.1.1. Oil, gas, and other offshore infrastructure and activity was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on safety measures and the effectiveness of the proposed mitigation.

National Policy Statement (NPS)

14.1.2. The assessment for oil, gas, and other offshore infrastructure and activity is set out in the Overarching National Policy Statement for Energy (NPS EN1) and the National Policy Statement for Renewable Energy Infrastructure (NPS EN3). The NPS for Electricity Networks Infrastructure (NPS EN5) is also of relevance.

14.1.3. NPS EN3 requires the Applicant to:

- undertake an assessment of the potential effect of the proposed development on existing operational offshore infrastructure, for which a licence has been issued by Government, (Paragraph 2.6.179); and
- engage with interested parties in the potentially affected offshore sectors early in the development phase and throughout the life of the development including construction, operation and decommissioning phases where necessary, to ensure that solutions are sought that allow offshore wind farms and other uses of the sea to successfully co-exist (Paragraphs 2.6.180 and 2.6.181).

14.1.4. In reaching a decision, NPS EN3 states the Secretary of State for Energy Security and Net Zero (SoS), that should be satisfied that:

- the Applicant has minimised negative impacts and reduced risks to as low as reasonably practicable to other offshore infrastructure or activity (Paragraph 2.6.183);
- the site selection and site design of the proposed offshore wind farm has been made with a view to avoiding or minimising disruption or economic loss or any adverse effect on safety to other offshore industries (Paragraph 2.6.184);
- the SoS should not consent applications which pose unacceptable risks to safety after mitigation measures have been considered (Paragraph 2.6.184); and
- where a proposed development is likely to affect the future viability or safety of an existing or approved/licensed offshore infrastructure or activity, the adverse effects have substantial weight in its decision-making (Paragraph 2.6.185).

Other Legislation and Policies

14.1.5. Other guidance relevant to the Proposed Development are set out in the Environmental Statement (ES) [APP-102, Section 16.4.1.2, Paragraph 28] and in Chapter 3 of this Recommendation Report. This includes, for example, the OIL AND GAS UK – Pipelines Crossing Agreement and Proximity Agreement Pack (OIL AND GAS UK, 2015).

14.2. THE APPLICATION

Environmental Statement

14.2.1. The Applicant's assessment of oil, gas, and other offshore infrastructure and activity the is set out in the ES Chapter Petroleum Industry and Other Marine Users [APP-

102], with figures [APP-128]. ES Chapter 13 – Shipping and Navigation [APP-099] and ES Chapter 15 Aviation and Radar [APP-101] also have information relevant to oil, gas, and other offshore infrastructure and activity.

14.2.2. Other application documents that are relevant includes the following:

- ES Appendix 16.1 - Vessel Access Study [APP-204].
- ES Appendix 16.2 - Helicopter Access Study [APP-205].
- Waveney Helicopter Access Supplementary Analysis [REP4-039].

Scope and Methodology

14.2.3. The Study Area has been defined in most cases as 5 kilometres (km) from the boundaries of the Proposed Development windfarm arrays and offshore cable corridors. However, for the Vessel Access Study [APP-204] a 10 nautical mile (nm) buffer is used. There is also a consultation zone of 9nm used for the Helicopter Access Study, as required by the Civil Aviation Authority (CAA) [APP-205]. The Applicant has also set out the consultation responses from various bodies and organisations pre-submission of the Application, which considered such matters as what needed to fall within the scope of the ES assessment.

14.2.4. Data was collected from the Oil and Gas Authority, The Crown Estate, the British Marine Aggregate Producers Association, and the Centre for Environment Fisheries and Aquaculture Science (Cefas), amongst others. This provides details of disposal sites, dredger transit routes, aggregate sites, other offshore wind farms and also Oil and Gas (O&G) surface and subsurface infrastructure, wells, pipelines and licensing information. Consultation was undertaken with companies such as Independent Oil and Gas (IOG) and Perenco, for example.

14.2.5. The ES assessment on these matters had been informed by consultation with relevant operators, as set out in the ES [APP-102, Section 16.2]. There were no substantive objections received through the course of Examination with regards to the scope or methodology of the ES [APP-102] or its appendices [APP-204] [APP-205].

14.2.6. Potential impacts within the ES include the general interference, disruption or damage to the activities or assets of the petroleum industry and other marine users (including other offshore wind farm export cables, oil & gas, and subsea cables). These are assessed against what is considered worst-case scenarios, based on the potential scenarios for the Proposed Development. The worst-case construction scenario for the petroleum industry and other marine users is that which would create the maximum disruption for the longest period. The Applicant also noted that the operational phase, representing the maximum build out of Sheringham Shoal Offshore Wind Farm Extension (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP), is assumed to represent the worst-case [APP-102, Table 16-2].

14.2.7. This ES [APP-102] assessment is made for each phase of the Proposed Development, being the construction, operational and decommissioning phases. Also, projects and activities that may impact cumulatively with the Proposed Development have been considered. As part of this process, the assessment considers which of the residual impacts assessed for SEP and/or DEP on their own would have the potential to contribute to a cumulative impact [APP-102, Section 16.4.4].

Applicant's Assessment of Effects and Proposed Mitigation

- 14.2.8. The Applicant's proposed embedded mitigation is summarised in the ES [APP-102, Section 16.3.3]. This includes the following:
- 6) Site selection considerations of significance to petroleum industry and other marine users
 - 7) Stakeholder engagement
 - 8) Crossing and proximity agreements
 - 9) Co-operation and liaison agreements
 - 10) Marking and Lighting for offshore infrastructure
 - 11) Ensure unimpeded search and rescue access
- 14.2.9. Additional mitigation includes a 1.26nm buffer free of surface infrastructure around Perenco Waveney installation, to positioning of turbines within the DEP North (DEP-N) array area and DEP South (DEP-S) array area to minimise any reduction in searoom, and to undertake ongoing consultation with relevant stakeholders. This could result in liaison and agreement of appropriate protocols during periods of construction and commercial agreements.
- 14.2.10. This embedded and additional mitigation would mostly be secured through draft Deemed Marine Licence (dDML) conditions, including Conditions for Notifications and Inspections, Aids to Navigation, Colouring of Structures, Offshore Safety Management, Pre-construction plans and Documentation, Offshore safety management, and Post-construction monitoring and surveys (dDML Schedule 10 and 11, Conditions 7, 8, 9, 13, 16, 18 and 20; and dDML Schedule 12 and 13, Conditions 6, 7, 8, 12, 15, 17 and 19). The 1.26nm buffer around Waveney Platform would be secured through Protective Provisions with Perenco, as included in the dDCO [REP8-005].
- 14.2.11. The conclusion in the ES states that the residual adverse effects of the Proposed Development on the oil, gas, and other offshore infrastructure and activity would be minor adverse impacts at worst, except for the matter of interference with O&G operations, through both the construction and operational phases of the Proposed Development. This is assessed to have a moderate adverse impact (considered to be not significant in the ES), which does not change following additional mitigation with the 1.26nm buffer for Waveney for example. This is set out in the ES [APP-102, Table 16-16].

14.3. LOCAL IMPACT REPORTS

- 14.3.1. There is no substantive comment on the matter of oil, gas or other offshore infrastructure or activity within any of the submitted Local Impact Reports.

14.4. THE EXAMINATION

- 14.4.1. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:

- 12) helicopter access to existing oil and gas Installations/Platforms; and
- 13) shipping access to existing oil and gas Installations/Platforms

Helicopter Access to existing oil and gas Installations/Platforms

- 14.4.2. At the outset of the Examination there was concern raised by Perenco UK Limited, who operate the Waveney installation. The Waveney Normally Unmanned Installation (NUI) is located approximately 500 metres (m) from the northern edge of the proposed northern part of the Dudgeon Extension Project (DEP-N). Perenco's concern is that the close proximity of the Proposed Development to Waveney NUI

would preclude production of gas from the Waveney field and prevent the Waveney NUI from being decommissioned and dismantled due to restricted helicopter access, thereby preventing it from fulfilling its statutory obligations under the production licences already awarded to it. An obstacle-free airspace of at least 3nm around the Waveney NUI was requested by Perenco so that helicopter access can remain at existing levels [REP1-156].

- 14.4.3. Perenco have also explained that helicopter operators must consider One Engine Inoperable (OEI) take-offs, for safety reasons. Later in the Examination process Perenco stated that in recognising the minimum wind turbine spacing of 1.05km, it accepted that an OEI take-off could be executed with wind turbine rotor tips no nearer than 1.26nm from the helideck [REP7-121].
- 14.4.4. The Waveney installation is a platform which comprises two drills into the Waveney gas field. It is a NUI with a helicopter platform, with Perenco stating that decommissioning is expected about or after 2030. For decommissioning, there would need to be a non-production installation (NPI) to be located near Waveney NUI [REP1-156].
- 14.4.5. Perenco state that during normal operations, the Waveney NUI is accessed by helicopter on a weekly basis. The Waveney NUI helideck is restricted to being used in daylight hours only. However, helicopter operations are currently conducted in a variety of weather conditions, making use of instruments as required [REP1-156].
- 14.4.6. In response to the Examining Authority (ExA) written question Q1.4.2.3 [PD-010] the Applicant stated that an obstacle free environment of 1nm is sufficient, as evidenced by flight information for the Hornsea Windfarms. The Applicant went on to state that these flights operate safely using the same helicopter type and are conducted under the same Commercial Air Transport Regulations as flights to the Waveney and Blythe Platforms, indicating that safe Day Visual Meteorological Conditions operations are possible with a smaller obstacle free radius (914m inside Hornsea 2 and 1200m for Blythe) [REP1-036].
- 14.4.7. The CAA is currently in discussions with helicopter operators with the intention of updating the policy and guidance relating to flights in proximity to and within a windfarm. There is no firm information on timescales for adoption of new CAA policy that would affect helicopter access to offshore installations, but Perenco state that North Sea helicopter operators are currently updating their operating manuals to incorporate the proposals so that they will be de-facto requirements [REP7-121]. Perenco state for installations within 3nm of a wind farm the limitations that will be recommended to the CAA include flights to be restricted to day hours only; the need for at least 500m visibility; and at least a 700 feet (ft) cloud base [REP3-154]. As DEP-N would be approximately 500m from Waveney NUI then these anticipated regulations would apply. These restrictions for helicopter access given the proximity of the proposed DEP-N would apply if the CAA regulations were implemented as anticipated.
- 14.4.8. The Applicant has also highlighted that the draft CAA regulations would prohibit night flights within 3nm of a wind farm, but points to existing Dudgeon Offshore Windfarm (DOW) turbines within 2.7nm of Waveney. As such, the Applicant sets out that if the CAA implements the new regulations in full, then no night commercial helicopter operations would be possible to a NPI at or near Waveney NUI and so DEP would have no material impact on night access (there is already a restriction on night flights to Waveney platform) [REP4-039].

- 14.4.9. Whilst Perenco confirms that one of the Dudgeon wind farm turbines is 2.7nm from the Waveney NUI, it believes that the CAA is highly likely to provide dispensation given that there is only a single wind turbine within 3nm and it is set 2.7nm away from Waveney [REP6-036].
- 14.4.10. The Applicant stated there were three turbines within 3nm but the closest is 2.7nm, but the Applicant did not disagree that there is a possibility that there could be CAA dispensation to allow for these anticipated restrictions to be lifted, given the distance between Waveney and DOW. However, the Applicant stated there would likely still need to be some flightpath restrictions to avoid DOW [REP7-078].
- 14.4.11. Perenco considered the distance from the proposed turbines based on a stabilised approach. Current UK practice requires the helicopter to be on a stable final approach by between 0.75nm and 0.5nm from offshore destination, depending on the operator. Perenco's helicopter operators (Bond Helicopters) requires 0.75nm, which is the distance any turn into the final approach must be complete by stabilised approach minima. Perenco explains that this would require a distance of 1.34nm along the approach path between turbine and Waveney [REP3-154]. Perenco also later explained that the distance to wind turbine rotor tip required for an approach is 1.26nm (or as stated in the document 1.34nm to turbine base, assuming a wind turbine rotor diameter of 300m) [REP6-036].
- 14.4.12. Perenco stated that as its helicopter operators require a 0.75nm stabilization point the 1.01nm proposed by the Applicant for a buffer would render the Waveney installation uneconomical to operate. Based on meteorological data Perenco considered that for wind turbine rotor tips at or less than 1.01nm from Waveney NUI there would not only be the loss of usable instrument meteorological condition (IMC) approaches, but also the loss of visual meteorological condition (VMC) approaches unless an east-west approach is possible. The calculations by Perenco for helicopter operations that would have been possible if there was a wind turbine rotor tip within 1.01nm was as low as 2% (yearly average 3%) compared to previous years [REP7-121, Table 2].
- 14.4.13. In terms of the distance needed for an approach, the Applicant based its initial mitigation on a 0.5nm stabilization point and calculated this distance to be the need for a 1.01nm buffer from the platform to any turbines [REP4-039].
- 14.4.14. Nonetheless the Applicant amended its position at the last deadline of the Examination so that there would be a 1.26nm obstacle free buffer around Waveney Installation as a Protective Provision (PP) within the dDCO [REP8-079].
- 14.4.15. The PPs for Perenco are within dDCO Schedule 14, Part 15. This states that the undertaker must not construct or carry out any works to install any wind turbine generators or offshore substation platforms within the pipeline proximity area or within the facilities proximity area or to adversely affect the line of sight. The facilities proximity area is defined as an obstacle-free area comprising a cylinder with a horizontal radius of one point two six nautical miles (1.26nm) extending from the centre of the existing Waveney platform located within the Licence and extending vertically from mean sea level.
- 14.4.16. The Applicant highlighted that whilst it considers that Perenco's current helicopter operator could maintain VMC access at 1.01nm it is nevertheless putting forward 1.26nm in the proposed PPs. The Applicant stated that the distance of 1.26nm is agreed between the parties to have, at most, a 4% loss of access opportunities for Perenco. Furthermore, the Applicant, with regard to what was needed by helicopters for OEI take-offs, stated that PPs for the benefit of Perenco with a buffer radius of

1.26nm from the Waveney NUI satisfies Perenco's requirement for OEI take-off [REP8-062].

- 14.4.17. The Applicant also pointed to what it considered as the fact that to reduce the 4% impact on access to 0% can only be achieved by a 3nm distance – no point in between has that effect. But, as the Applicant also highlighted, it considered that a 3nm distance has a fundamental impact on the viability of DEP. The balance of impacts to achieve the pragmatic co-existence between the two projects is clear at 1.26nm [REP8-062].
- 14.4.18. As this was submitted at the end of Examination there was no response to this from Perenco. However, Perenco had considered the impacts of a potential 1.26nm buffer. Perenco considered that for daylight access there would be an annual average of 67% access to Waveney NUI compared to 71% if there were no wind turbines developed at DEP-N. For access to a NPI for day and night access there was a 77% annual average with the 1.26nm buffer compared to 88% if there were no DEP-N turbines [REP7-121, Table 2].
- 14.4.19. With regards to the potential 1.26nm buffer Perenco had stated that it would be amenable to a commercial arrangement which provides compensation for economic losses (arising from a level of negative impacts) for a minimum distance of 1.26nm [REP7-120].
- 14.4.20. At the end of Examination there was no commercial agreement at the end of the Examination and Perenco's submitted PPs include an obstacle-free area comprising a cylinder with a horizontal radius of 3.00nm [REP7-122].
- 14.4.21. Along with the Waveney Installation, there is also the Blythe platform (operated by IOG), which is a normally unmanned production platform (NUI) installed in June 2021. It was installed less than 200m from the consented boundary of DOW and 0.6nm (approximately 1,100m) from the nearest wind turbine. Blythe is approximately 1.3km from DEP. There is also the IOG operated Elgood wellhead, approximately 0.5km from DEP.
- 14.4.22. IOG stated that multiple helicopter approach paths are required to allow access to the Blythe platform in varying weather conditions, and for emergency response [RR-044]. At Issue Specific Hearing 1 [EV-013 (at 36:00 mins) and EV-017], the representative for IOG considered that any restricted access to Blythe was not insurmountable and there was ongoing dialogue with the Applicant, which would continue once the number of turbines, spacing between turbines, and their size, had been determined.
- 14.4.23. IOG did not engage with the Examination further. There was also no Statement of Common Ground between the Applicant and IOG, but the Applicant did state at the end of Examination that it understands that IOG are not seeking further protection (further to standard PPs for such undertakers). The Applicant did go on to state that it is in ongoing discussions with IOG over PPs (See Chapter 28 of this Recommendation Report).
- 14.4.24. In terms of helicopter access, the ES states that the Blythe NUI already is likely restricted day/night VMC access due to its proximity to DOW. IMC access to Blythe would not be feasible during the operation of DEP, however, it is noted that it is currently impaired owing to proximity of DOW to such an extent that it is already impractical. The Applicant states that given the existing restrictions presented by DOW, DEP is interpreted to present little additional impact [APP-102, Paragraph 136].

ExA's Reasoning

- 14.4.25. With regards to approach distances, the ExA considers that the change by the Applicant to agree to provision of an obstacle free buffer around Waveney NUI is a key factor. It is understood that anything less than 3nm buffer would mean some additional restrictions to helicopter access to Waveney NUI, but a 1.26nm buffer would have much less impact than the initially proposed 1nm. Indeed, it is noted that Perenco would have accepted a 1.26nm buffer if there was a compensatory agreement also, which suggests that a 1.26nm buffer would have only economic rather than safety implications.
- 14.4.26. From Perenco's own calculations [REP7-121, Table 2] there would be a percentage reduction in times when helicopters could access Waveney's platform. It does vary depending on the season and month, but the difference from a situation where there was no development of DEP-N is not considerable. Perenco maintained that 1.26nm is required for VMC access in any wind direction based upon a 0.75nm stabilised approach distance of the future helicopter operator. Perenco has also stated that 1.26nm is required for OEI take-offs. This 1.26nm buffer has now been agreed by the Applicant and is within the draft DCO as a PP for Perenco.
- 14.4.27. There would be the loss of IMC approaches, which would mean some loss in the times where helicopters could access Waveney NUI, but the differences are minimal, with the Perenco calculation of daylight access being reduced by approximately 4% from a situation if there was no Proposed Development, taking into account the anticipated CAA regulations [REP7-121]. The ExA is satisfied that on this basis the Proposed Development would have minimal impact on the viability of the Waveney Installation for the remainder of its operational life, which is estimated by Perenco to be approximately 2030.
- 14.4.28. There may still be a commercial agreement between the Applicant and Perenco for the payment of compensation, but this is not a factor in the ExA coming to the conclusion that the installation could remain viable with the proposed DEP-N development and the 1.26nm buffer, despite the extra restrictions on helicopter access.
- 14.4.29. The ExA notes that there would be some loss of potential helicopter access to an NPI when the Waveney NUI is to be decommissioned. The NPI could have permission for night-time approaches, whereas the platform at Waveney does not. However, it is noted that based on the anticipated CAA restrictions it is possible that night approaches would be restricted even if DEP-N is not developed, due to the proximity of DOW turbines. However, the ExA does understand that there could be special dispensation from the CAA, though this is not guaranteed. Perenco calculate a loss of access for a NPI at the Waveney Installation as 11% (down to 77%) with wind turbine rotor tips over 1.26nm away. This would have an adverse impact and might slow the decommissioning process. However, considered in the overall remaining operational timeframe of the Waveney platform, it is understood that a NPI is not usually at Waveney and it mainly seems to be a feature of its decommissioning. This limits the overall adverse effects of the Proposed Development given that the restrictions of access to an NPI would not be a common occurrence.
- 14.4.30. Overall, with regard to the Waveney Installation, there would be an economic and operational impact for Perenco, but such impacts are mitigated sufficiently by the 1.26nm obstacle free buffer and all other forms of mitigation proposed by the Applicant and secured in the rDCO.
- 14.4.31. Due to its late submission within the Examination, it is recommended that the SoS consult with Perenco on the PPs included in relation to helicopter access and that

submitted by the Applicant at D8, though the ExA are satisfied with its wording and commitments regarding the facilities proximity area.

14.4.32. Based on the information and evidence before ExA, for the IOG Elgood and Blythe installations the Proposed Development would have minimal impact to helicopter access over and above existing levels and restrictions, particularly due to the existing close proximity of the DOW array. However, due to the lack of continued communication and engagement with IOG through the Examination the ExA recommends the SoS consult directly with IOG as to its stance with the Proposed Development and the potential requirements for PPs, with the Applicant stating that there are still ongoing discussions with IOG at D8.

14.4.33. All matters relating to aviation are to be found in Chapter 13 of this Recommendation Report. This includes the impact on Minimum Safe Altitudes and Air Traffic Control Surveillance Minimum Altitude Charts.

Shipping access to existing oil and gas Installations/Platforms

14.4.34. Perenco stated that if its proposals concerning space for helicopter operations are adopted, there would be no material restrictions to vessel operations around the Waveney NUI as long as no temporary or permanent surface infrastructure is placed within the 3nm (or even the 1.5nm) radius of the Waveney NUI [REP1-156].

14.4.35. There was no further discussion of the matter of vessel access through the Examination. However, at the end of the Examination, due primarily to allow helicopter access, the Applicant proposed a 1.26nm buffer.

14.4.36. The Applicant has stated in the Schedule of Mitigation and Mitigation Route Map the positioning of turbines within DEP-N array area and DEP-S array area to minimise any reduction in sea room, to mitigate against potential interference with oil and gas operations [APP-102] [REP8-021]. The Applicant's data also indicated an average of only one to two vessel visits per month to Waveney [APP-102, Paragraph 124].

14.4.37. The Applicant's Assessment of Impact on Offshore Oil and Gas Installations (Vessel/Rig Access) [APP-204] states that a final layout would likely not be defined until the post consent stage, where an approval process would be undertaken with MMO via the Maritime Coastguard Agency and Trinity House consultation. The Applicant also states that no structures would be located within the 500m safety zones of Oil and Gas assets, and consultation will be ongoing with the relevant operators to ensure appropriate access is maintained.

ExAs Reasoning

14.4.38. It is noted that Perenco have stated that 1.5nm buffer space around Waveney NUI would be sufficient to allow vessel access. However, it is not clear whether Perenco would agree that 1.26nm would be sufficient for vessel access, as it is below the 1.5nm distance that it stated would be sufficient for vessel operations.

14.4.39. ExA does note that the Blythe platform was constructed only approximately 0.6nm from turbines at DOW, which demonstrates that offshore wind farms can be in close proximity to NUI installations and operations can continue in such limited sea room, as was also concluded by the Applicant [APP-102, Paragraph 97]. This indicates to the ExA that a 1.26nm infrastructure free buffer around Waveney should be sufficient for vessels to access the installation.

14.4.40. With mitigation to include the positioning of turbines within the DEP-N array area and DEP-S array area to minimise any reduction in sea room, and the 1.26nm buffer

clearance for Waveney from any turbines, ExA concludes that this should be sufficient to satisfactorily reduce the adverse effects on loss of sea room for vessel access for Waveney.

14.4.41. However, as the revision to the distance of the buffer, to be secured through PPs with Perenco, was submitted at the final deadline of Examination, the ExA recommends consulting with Perenco on whether the 1.26nm buffer would be sufficient to avoid material restrictions to vessel operations. Please see Chapter 28 of this Recommendation Report for more information and detail on this matter.

14.4.42. Furthermore, as set out in the helicopter access section above, the ExA recommends the SoS consult directly with IOG as to its stance with the Proposed Development and the potential requirements for PPs, with the Applicant stating that there are still ongoing discussions with IOG at D8. Such PPs could refer to vessel access potentially.

14.5. CONCLUSIONS

14.5.1. It is the conclusion of the ExA with regards to helicopter access to Perenco's Waveney Installation that an obstacle free buffer around this platform would be sufficient to minimize adverse impacts and allow its continued viable operations until it is decommissioned. There would be some impact to helicopter access above existing levels, especially factoring in the anticipated new CAA regulations, but the level of impact would not be significant. Furthermore, with the 1.26nm buffer then OEI take-offs should be possible.

14.5.2. On these issues, it is ExA's conclusion that the Proposed Development accords with the NPS EN3 such as that with Paragraphs 2.6.183 and 2.6.184 as the Proposed Development would not pose an unacceptable risk to safety and the mitigation, such as the obstacle free buffer for Waveney NUI, would ensure disruption and economic losses were minimised.

14.5.3. Overall, the ExA concludes that the issues in this chapter carry a minor level of weight against the making of the Order for all Development Scenarios.

15. CONSTRUCTION EFFECTS – OFFSHORE

15.1. BACKGROUND AND POLICY CONTEXT

15.1.1. This Chapter focuses on the Applicant's approach to the delivery of the Proposed Development and the application of the Rochdale Envelope in the context of offshore matters. It considers the effects arising from the Applicant's design choices both during and post-Examination. There is some overlap with environmental issues considered elsewhere in this Recommendation Report and should therefore be read in conjunction with the content of Chapters 7 to 12.

National Policy Statements (NPS)

15.1.2. The Infrastructure Planning (Environmental Impact Assessment (EIA)) Regulations 2017 (EIA Regulations) requires an EIA development to submit an Environmental Statement (ES) with a description of the physical characteristics of the whole development, land-use requirements, and expected residues and emissions that would be produced during the construction and operation phases. It also requires a description of the likely significant effects of the development on the environment resulting from the construction of the development (EIA Regulations, Schedule 4, Paragraphs 1 and 5).

15.1.3. Whilst construction effects are considered generally in respect of each planning matter within the respective National Policy Statements, paragraphs 4.2.7 and 4.2.8 of Overarching NPS for Energy EN1 (NPS EN1) recognise that there is a need for flexibility within applications for Nationally Significant Infrastructure Projects (NSIP). Where some details are still to be finalised, the ES should set out to the best of the Applicant's knowledge what the maximum extent of the Proposed Development may be and assess, on that basis, the effects which the project could have.

15.1.4. Paragraph 5.1.2 of NPS EN1 states that the NPSs are not intended to provide a list of all possible effects of ways to mitigate such effects, so therefore the Examining Authority (ExA) and the Secretary of State for Energy Security and Net Zero (SoS) should consider other impacts and means of mitigation where it determines that the impact is relevant and important to its decision.

15.1.5. NPS EN3 offers further clarification at paragraph 2.6.43, whereby it states the decision-maker should accept that wind farm operators are unlikely to know precisely which turbines will be procured for the site until sometime after any consent has been granted. Where some details have not been included in the application, the Applicant should explain which elements of the scheme have yet to be finalised, and the reasons.

15.1.6. In reaching a decision the SoS should be satisfied the Applicant has assessed construction effects, has proposed processes that will be followed to ensure effective management of effects arising, has considered whether mitigation measures are needed and, has provided sufficient information to show that any necessary mitigation will be put in place.

15.2. THE APPLICATION

Environmental Statement

15.2.1. The Applicant's position on construction effects is set out within and across all Chapters of the ES. Of particular relevance to this Chapter, which focuses on offshore construction effects only, the following documents comprising the Applicant's case are pertinent:

SHERINGHAM SHOAL AND DUDGEON OFFSHORE WINDFARM EXTENSION PROJECT EN010109
REPORT TO THE SECRETARY OF STATE: 17 OCTOBER 2023

- ES Chapter 4 Project Description [APP-090].
- ES Chapter 8 Benthic Ecology [APP-094].
- ES Chapter 9 Fish and Shellfish [APP-095].
- ES Chapter 10 Marine Mammal Ecology [APP-096].
- ES Chapter 11 Offshore Ornithology [APP-097].
- Offshore Design Statement [APP-312].
- Scenarios Statement [APP-314].

Scope and Methodology

- 15.2.2. The Proposed Development incorporates a single array area for the extension of the Sheringham Offshore Wind Farm (SOW) and two physically separate array extension areas for the Dudgeon Offshore Wind Farm (DOW). The extensions to the DOW could occur to the north (DEP-N) and the south (DEP-S). The Applicant stated the total of number of turbines proposed for DEP could feasibly fit within DEP-N alone, without the need for DEP-S.
- 15.2.3. The Proposed Development and the various scenarios of delivering it are described within Chapter 1 and 4 of this Recommendation Report. In applying the Rochdale Envelope, in the offshore environment, the following matters have their details presented in the ES but are as of yet unconfirmed:
- construction programme;
 - turbine generator foundation types; and
 - layout of the arrays including location of turbines and offshore substation platforms.
- 15.2.4. The Applicant maintained from the outset of the Examination that these matters could not be concluded upon until post-consent stage due to either commercial negotiations or the requirement for further geotechnical studies.
- 15.2.5. The assessment methodologies for offshore construction effects, for the project alone and cumulatively, are set out across the relevant chapters of the ES (i.e., underwater noise effects upon marine mammals) and are consequently reported elsewhere in this Recommendation Report.

Applicant's Assessment of Effects and Proposed Mitigation

- 15.2.6. Discussions regarding the mitigation of worst-case scenarios for the receiving environment are set out in each respective Chapter of the ES. The Applicant did however reassure that the suite of management plans that would emerge post-consent, coupled with draft Deemed Marine Licenses (dDMLs) and the detailed consultation with the relevant Interested Parties (IPs) contained within the Requirements (R) of the draft Development Consent Order (dDCO) would ensure adequate controls in the post-consent process and decision-making.

15.3. LOCAL IMPACT REPORTS

- 15.3.1. None of the Local Impact Reports addressed the matter of offshore construction effects. Norfolk County Council did raise some matters regarding impacts on seascape and views of the Proposed Development from land, but these are considered separately in Chapter 17 of this Recommendation Report..

15.4. THE EXAMINATION

- 15.4.1. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:

- 1) construction programme;
- 2) turbine generator foundation types; and
- 3) layout of the arrays and apparatus.

Construction programme

- 15.4.2. The scenarios that underpin the Proposed Development are set out in Chapter 1 and 4 of this Recommendation Report. For offshore purposes, the scenarios would lead a construction period of either 2 years (concurrent) or 4 years (sequential) potentially with a gap in between. Depending upon the scenario undertaken, either one (scenarios 1a, 1b, 1c, 1d, 2, 3) or two (scenario 4) offshore substation platforms (OSP) would be constructed. If two OSPs were required, then two sets of export cables to bring electricity from the wind farms to the landfall site at Weybourne would be required. The Proposed Development would have an approximate 40-year life span at the start of operation [APP-090].
- 15.4.3. Concurrent construction scenarios would see a greater intensity of activity within an overall shorter period of time. The sequential scenario (scenario 1c, 2, 3a, 4a) would see a spreading out of activity over a longer period of time. Natural England (NE) suggested no firm conclusions could be drawn on the preferability of either scenario from an offshore ecology point of view, with the effects being experienced by different receptors to different degrees. In respect of the sequential scenario with a gap in between construction periods, NE stated that there was no clear evidence to suggest that an on and off effect would be no better or worse than a scenario of four years [REP3-147, Q2.5.1.2].
- 15.4.4. The sequential scenario, representing the worst-case in this instance, indicates a total of 1,196 vessel movements would be generated during construction of the Proposed Development [APP-090, paragraph 208]. The Applicant stated that it was likely that vessels associated with operational maintenance of the Proposed Development would originate from the Port of Great Yarmouth, which is current port that services the parent wind farms, although this would be a commercial decision post-consent [APP-090], [REP7-065, Q4.12.1.2]. NE had concerns that these vessels would pass through the Greater Wash (GW) Special Protection Area (SPA) (GWSPA) and thus disturb rafting birds such as the red-throated diver [RR-063]. The Applicant adopted best practice measures within its Outline Project Environmental Management Plan (OPEMP) [REP7-035] to ensure vessels would follow existing shipping channels, vessels would travel in convoy and that seasonal restrictions on movements in the GWSPA would bind vessels at any stage of the Proposed Development. The Applicant stated this would not have a significant effect on the overall construction programme [REP7-065, Q4.5.1.2]. The effects of the construction programme from a Habitats Regulation Assessment (HRA) perspective are considered further in Chapter 26 of this Recommendation Report.
- 15.4.5. The ExA queried whether night-time working restrictions should be imposed in relation to offshore wildlife sensitivities [PD-012, Q2.11.5.3]. Neither the Applicant nor IPs suggested it was necessary to restrict offshore works in this way, citing that mitigation would suffice for those occasions where evening working was required [REP3-133] [REP3-141].
- 15.4.6. The Applicant confirmed that re-powering or replacing the turbines would require a new DCO to be applied for and made [REP1-036, Q1.5.1.3]. Therefore, the ES has made assumptions on the basis of 40-year operation followed by a process of decommissioning. The effects of decommissioning, depending upon decisions as to whether to leave elements of the infrastructure remaining on the seabed, would broadly be the same as those experienced during construction.

- 15.4.7. IPs had raised the issue, albeit in an onshore capacity, about enforceability of terms and commitments under the dDCO requirements and how this was to be policed, based upon evidence that it is local residents that appear to be monitoring [EV-074] [EV-075, minutes 1:02:07 to 1:05:44]. The ExA raised this matter, in the context of the offshore construction, with the Applicant during Issue Specific Hearing (ISH) 5 [EV-076] [EV-080, minute 1:00:33 to 1:03:38]. The Applicant set out that any activities in the marine environment would be undertaken with the benefit of a marine license, with the Marine Management Organisation (MMO) as the ultimate enforcer.
- 15.4.8. No other IPs expressed concern regarding the length of construction programme or the suitability of any construction scenario available to the Applicant through the dDCO in the context of the receiving offshore environments. At the close of the Examination, there were no matters in this regard that remained unresolved.

ExA's Reasoning

- 15.4.9. The Applicant had sought to retain various construction scenarios within the dDCO application, which all have varying consequences for the construction programme. In the specifics of this programme offshore, the Applicant has identified and assessed the worst-case in line with the applicable guidance and presented these in the ES for each receiving environment. Based on the evidence and IP's representations to the Examination, the ExA considers that it is not necessary, in respect of offshore construction, to identify a single preferred construction scenario from either an EIA or HRA perspective, nor to impose any other restrictions upon the offshore construction programme other than those already secured in the dDCO and its accompanying management plans.
- 15.4.10. Whilst adverse effects would arise from offshore construction processes, as opposed to if no development were to take place, the ExA considers that the offshore construction programme is effectively and suitably controlled through Requirements 1 and 9 in the dDCO [REP8-005], together with the provisions in the OPEMP [REP7-035] and the Outline Offshore Operations and Maintenance Plan (OOMP) [REP3-058]. The ExA is encouraged by the consistency of responses from IPs regarding this matter. The effectiveness of mitigation is subject to scrutiny elsewhere in this Recommendation Report.

Turbine generator foundations

- 15.4.11. The ExA considered that leaving the choice of foundation design to any post-consent process would not allow a proper assessment of the Proposed Development in the Examination and would leave a high amount of environmental risk remaining post-consent. The Applicant presented five different types of foundation design to the Examination, seeking to retain the option to deploy all of these as necessary in any post-consent Development Scenario [APP-090, Paragraph 71]. This would be decided once seabed geophysical surveys had been undertaken to determine the appropriate foundation mix. In light of the development options available to the Applicant, the ExA sought further information on potential foundation construction and justification as to why the foundation choice could not be narrowed down for the Examination [EV-012, EV-016, minutes 8-14].
- 15.4.12. The Applicant submitted that the worst-case scenarios presented in the ES are piled foundations, for underwater noise, and gravity based suction for seabed disturbance and habitat loss. Installation of different foundation types would always be within the worst-case scenarios assessed, so the mitigations secured within the dDCO would be sufficient in the Applicant's opinion [REP3-103, Q2.5.1.8].

- 15.4.13. The Applicant confirmed that the dDCO would allow for simultaneous foundations to be constructed either within a single area (i.e. within SEP alone) or within two areas (i.e. within SEP and DEP), although there would not be three simultaneous piling operations at any time [REP1-036, Q1.9.1.4]. Simultaneous piling, representing the worst-case for marine mammals, was described as two separate piling events occurring within a 24-hour period. The Applicant explained that simultaneous piling would increase the total of marine mammals disturbed per day but single piling, being one piling event in a 24-hour period, would extend the overall construction period thus affecting more marine mammals overall, thus representing the worst-case [REP7-056, Table 3-1].
- 15.4.14. When pushed by the ExA to commit to a number of piled foundations, the Applicant stated with some confidence during Examination that cable protection would not be required over the majority of the offshore cable corridor based upon past experience constructing the parent windfarms [EV-012] [EV-015], but could not provide any greater certainty regarding turbine foundations [REP1-036, Q1.5.1.5]. The Applicant further noted that other offshore wind farms (OWF), notably Norfolk Vanguard OWF 2022, Norfolk Boreas OWF 2021 and East Anglia ONE North OWF 2022, were not constrained in their foundation design choice within their DCOs [REP1-036, Q1.5.1.5] and that the geological conditions may be different for the Proposed Development than found within the existing parent windfarms [REP3-103, Q2.5.1.7].
- 15.4.15. Neither NE nor the MMO raised particular concern regarding the foundation-type choice available to the Applicant, nor the level of flexibility to pick and choose between the foundation types, focusing instead on the effectiveness of mitigation and management plans [REP3-133] [REP3-141], which are considered in Chapters 8 and 29 of this Recommendation Report. No other IP sought to pursue attempts to narrow the foundation design choice down.
- 15.4.16. Similarly, no IP raised particular issue with the optionality for one or two OSPs. The ExA questioned the location of these pieces of infrastructure, particularly if the OSP was to be constructed in DEP-N as this would increase the length of export cable to be laid, as opposed to a shorter length if constructing in DEP-S [PD-010, Q1.5.1.2]. The Applicant explained that locating the OSP in DEP-N optimises the amount of infield and interlink cable required whilst locating the OSP in DEP-S would require more interlink cabling and would lead to higher electrical losses [REP1-036]. The Applicant did however clarify that the works plans allows for OSPs to be placed anywhere within the SEP and DEP array areas, to be determined post-consent.
- 15.4.17. The ExA queried the prospect of foundations being installed within the Proposed Development simultaneously with other foundations being installed on other plans and projects, thus cumulatively impacting on receiving environments [PD-017, Q3.12.2.5]. NE and the MMO confirmed that the Site Integrity Plan (SIP) [APP-290] being developed by the Applicant would serve to control this and prevent concurrent piling effects, hence there was no need for any further limits or controls to be imposed [REP5-080] [REP5-094].
- 15.4.18. The implications of foundation-type on marine mammals are considered further at Chapter 8 of this Recommendation Report. From a purely practical construction perspective, there were no outstanding issues at the close of the Examination regarding this matter.

ExA's Reasoning

- 15.4.19. Installation of foundations would be an impactful part of the construction process causing disturbance to a number of receptors. However, the ExA does not consider it reasonable to impose a commitment to limiting the number of piled foundations or

specifying the foundation-types to be used given the geological conditions would have a bearing on this decision. The ExA also note that there was no strong request for this from IPs or statutory bodies. It is considered that the Applicant has justified the need for flexibility within the scheme, allowing construction of foundations to vary according to underlying geological conditions and thus allowing the full potential of the Proposed Development to be realised. The ExA considers that the worst-case has been assessed and mitigated to a reasonable extent as confirmed by NE and MMO.

- 15.4.20. The ExA considers that the parameters set out within R3 and the conditions within the dDMLs in Schedules 10 to 13 of the rDCO are sufficient to ensure adequate control, consultation and notification to the relevant bodies over the foundation installation process, which is a view also expressed by NE and the MMO has the discharging authorities. The ExA is therefore confident that due diligence would be given in the post-consent processes to managing the quantity of foundations to be used across the Proposed Development, and the mitigation to be applied thereon.

Layout of arrays

- 15.4.21. The Applicant suggested that all the turbines for DEP could be built in DEP-N, or there could be a split of turbines between the DEP-N and DEP-S sites [APP-090], [REP3-025]. The choice of whether to develop DEP-S alongside DEP-N would be a post-consent commercial decision, as would the number of turbines to appear in each area if both areas were pursued during construction.
- 15.4.22. The ES stated that developing DEP-N on its own, with a higher density of turbines, represented the worst-case for offshore ornithology [APP-090, Table 4-3] whilst also presenting that developing both DEP-N and DEP-S could be the worst-case for shipping and navigation, as explored in Chapter 12 of this Recommendation Report.
- 15.4.23. NE stated that constructing all the turbines in DEP-N would be contrary to the mitigation hierarchy of avoid, minimise, mitigate [RR-063]. NE did not request that DEP-N be removed from the Order limits altogether but that the option where all turbines would be built in DEP-N should not be progressed in the dDCO [REP1-139, Q1.14.1.6]. NE recommended that the maximum number of turbines should be placed in DEP-S as possible [REP1-139] to limit the impact on offshore ornithology.
- 15.4.24. At [EV-011] and in response to the ExA's questions about whether the mitigation hierarchy had been applied properly [REP1-036, Q1.5.1.2], the Applicant stated the mitigation hierarchy had been adopted when formulating the Order limits at the pre-application stage and it would be inappropriate to re-apply the hierarchy at this Examination stage, constraining the Applicant's options further.
- 15.4.25. In response to the suggestion of limiting turbine numbers in DEP-N, the Applicant responded to state that, for offshore ornithology, when the collision risk estimates for the DEP-N design option are compared to the development of DEP as a whole, there is substantial overlap in confidence intervals, and these differences do not approach statistical significance [REP2-040]. In other words, there would not be any reasonable rationale for maximising turbine construction in DEP-S as there would not be any demonstrable measurable difference between developing the DEP-N and all-DEP design options [REP3-103 Q2.5.1.4].
- 15.4.26. NE disputed this [REP4-049] stating there was an inadequate sample size to draw such conclusions, with the digital aerial survey not designed to characterise DEP-N alone. NE continued that if the consent envelope being sought includes a scenario where DEP-N alone is brought forward, this worst-case scenario regarding collision mortality had not been clearly established in the ES. NE advocated that the proposed

solution was, like the Norfolk Vanguard OWF project, to commit to limiting numbers of turbines being installed with an array area.

- 15.4.27. The Applicant responded to state the aerial surveys were designed to provide data of the expected level of reliability and precision for the entire DEP site [REP5-049, Q3.5.1.1]. Attempting to subset the DEP site into smaller sub-areas results in the data from such sub-areas deriving from small sample sizes, which provide little statistical power to test for differences with other sub-areas or with the entire DEP site. The Applicant proceeded to state there was no basis for reducing the number of turbines that could be built at DEP-N from an offshore ornithology collision risk perspective [REP7-065, Q4.5.1.1].
- 15.4.28. The ExA queried whether a lesser density of turbines would result in a layout whereby a greater separation distance between each turbine may be a beneficial mitigation with regards to effects on offshore ornithology receptors [EV-076] [EV-080]. The Applicant however responded to state there was no sufficient scientific evidence to suggest a greater spacing between turbines would change the predicted effects [REP3-103, Q2.5.1.5] and that there was no intention to spread turbines over a wider geographical area than actually required.
- 15.4.29. By the end of the Examination, there were some constraints discussed and suggested to be imposed upon the Proposed Development that would affect the layout of the offshore turbines and constrain the Applicant to a degree. These were:
- 1) The exclusion of an overall combined 7.56 square kilometre area at the southeast and southwest of the SEP array area so as to remove potential displacement effects upon the red-throated diver species of the GWSPA [REP8-038] [REP8-062] secured through amendments to the Works Plans [REP8-004] considered in Chapter 26 of this Recommendation Report.
 - 2) An obstacle-free zone being proposed by the Maritime and Coastguard Agency reducing the western edge of the proposed DEP-N array area [REP7-096, Figure 1] considered in Chapter 12 of this Recommendation Report. This zone, as purported by the Applicant [REP7-072], would have the effect of reducing the number of turbines that could be built in DEP-N.
 - 3) An exclusion zone incorporated into the northeast section of DEP-N to a radius of 1.26 nautical miles from the Waveney oil platform, allowing for the landing and take-off of helicopters considered in Chapter 14 of this Recommendation Report.
 - 4) A cap on overall turbine numbers within the Proposed Development, to those numbers set out in the description of development, incorporated into the dDCO in R2(1)(e) and (1)(f).
- 15.4.30. In respect of other organisations and companies requiring protective provisions to be secured within the dDCO to defend their own interests and apparatus, the Applicant confirmed that none of the provisions would unduly constrain the layout of the turbines [REP3-103, Q2.5.1.6].

ExA's Reasoning

- 15.4.31. The ExA consider that, despite the difference of opinion at the end of the Examination, the Applicant has demonstrated sufficiently that optionality for the offshore layout of wind turbines in the Proposed Development should be retained in the rDCO. It is clear to the ExA that the Applicant has assessed the worst-case scenarios upon each type of receiving environment arising from their choice whether to develop DEP-N alone or together with DEP-S. There is no requirement for the Applicant to completely remove the DEP-N option from the dDCO and NE is not recommending this [REP1-139].

- 15.4.32. The ExA has concluded elsewhere in this Recommendation Report that the developable room within DEP-N should be constrained to mitigate for shipping and navigation concerns as well as to allow safe passage for helicopters. These matters are not repeated here. The ExA have not been presented with any compelling evidence that these restrictions, coupled with the exclusion zones proposed at the SEP array site for red-throated divers, would negatively impact on the delivery, feasibility or viability of the Proposed Development.
- 15.4.33. Beyond this however, minor variations in the layout and spacing of turbines would be of little consequence to the receiving environment and the ExA see no substantive reason or clear scientific rationale to impose further restrictions on the layout of DEP. The ExA are not convinced, based on the evidence before the Examination from IPs, that restricting the number of turbines in DEP-N would deliver any significant benefits for offshore ornithology receptors or provide any meaningful mitigation against the impacts predicted, as considered in Chapter 7 of this Recommendation Report.
- 15.4.34. The OPEMP, the embedded mitigation measures across the ES and the most recent works plans [REP7-035] [REP8-004], secured under Article 38, provide the ExA with reassurance that the residual impacts of the layout choice would be appropriately managed and stakeholders suitably engaged.

15.5. CONCLUSIONS

- 15.5.1. The ExA is satisfied that the Rochdale Envelope approach from the Applicant, manifested in R2 to R6 within the rDCO, is justified and typical of offshore windfarm developments where a number of parameters can only be determined during pre-construction surveying. In this instance, there is an added level of flexibility sought in terms of the construction programme given that SEP and DEP are, in principle, two separate projects each an NSIP in its own right.
- 15.5.2. Nonetheless, The ExA considers that the Applicant has taken a sufficiently robust approach and provided reasonable justification for the degree of post-consent decision-making. The flexibility sought in terms of construction programme, the foundation choice and the layout of the turbines is consistent with the expectations of NPS EN3 paragraph 2.6.43.
- 15.5.3. The ExA is satisfied that sufficient detail on the worst-case scenario has been provided for all aspects of offshore construction and the information provided in the ES allows full assessment of these impacts. The ExA believes suitable controls are in place to govern and regulate future decision-making on the nature of the project post-consent, in consultation with key stakeholders. To this extent, the ExA finds the proposal to meet the requirements of NPS EN1 paragraphs 4.2.7 and 4.2.8.
- 15.5.4. Specific construction related effects have been reported in various other Chapters of this Recommendation Report and been weighed accordingly within those Chapters. On this basis, in relation to the matters reported above, the ExA is of the view that the expectations of NPS EN1 paragraph 5.1.2 are met. As such, offshore construction effects would be neutral in the planning balance for all development scenarios.

16. HISTORIC ENVIRONMENT AND CULTURAL HERITAGE – OFFSHORE AND ONSHORE

16.1. BACKGROUND AND POLICY CONTEXT

16.1.1. Historic Environment and Cultural Heritage have been identified as principal issues in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on designated and non-designated heritage assets, effects on the North Norfolk Heritage Coast (NNHC), the adequacy of baseline surveys and environmental information and baseline surveys and effects of Unexploded Ordnance.

National Policy Statement (NPS)

16.1.2. The assessment Historic Environment, as set out in the Overarching National Policy Statement for Energy (NPS EN1) requires that applicants:

- provide a description of the significance of heritage assets and likely archaeological features that may be affected by the Proposed Development (NPS EN1, Paragraphs 5.8.8, 5.8.9 and 5.8.10);
- carry out appropriate assessments to assess archaeological interest (NPS EN1, Paragraph 5.8.9); and
- ensure that the extent of the impact of the proposed development can be adequately understood from the application (NPS EN1, paragraph 5.8.8 to 5.8.10).

16.1.3. In reaching a decision on an application for development consent, NPS EN1 states that the Secretary of State for Energy Security and Net Zero (SoS) should:

- seek to identify and assess the particular significance of any heritage asset that may be affected including the setting of the heritage asset, take account of the particular nature of the significance of the heritage assets and the value they hold for this and future generations and also take into account the desirability of sustaining and enhancing the significance of heritage assets (NPS EN1 paragraphs 5.8.11 to 5.8.13);
- presume in favour of conserving designated heritage assets such that the greater the significance of the designated asset, the greater the presumption in favour of its conservation and weigh any harmful impact on the significance of a designated heritage asset against the public benefit of development (NPS EN1 paragraphs 5.18.14 and 5.18.15);
- where loss of significance of any heritage asset is justified on the merits of the development proposed, the decision maker should consider imposing a condition or requirement for the applicant to enter into an obligation that will prevent such loss occurring until it is reasonably certain that the relevant part of the development is to proceed (NPS EN1 paragraph 5.8.17);
- require the developer to record and advance understanding of the significance of a heritage asset before it is lost, proportionate to the degree of significance of the asset where loss of significance of any heritage asset is justified on the merits of the development proposed and impose requirements where such recording and publication is required that such work is carried out in a timely manner in accordance with an agreed and secured written scheme of investigation (NPS EN1 paragraphs 5.8.20 and 5.8.21); and
- impose requirements to secure appropriate identification and treatment of such assets discovered during construction where the decision maker considers there is a high probability of as-yet undiscovered assets (NPS EN1 paragraph 5.8.22).

- 16.1.4. NPS EN3 requires the Applicant to:
- identify any beneficial effects on the historic marine environment, for example through contribution to new knowledge that arises from investigation (NPS EN3, paragraphs 2.6.140 to 2.6.143).

- 16.1.5. In addition, NPS EN3 requires the SoS to:

- be satisfied that the design of an offshore wind farm and associated offshore infrastructure has considered known heritage assets and their status, notably designated Protected Wrecks (NPS EN3, paragraph 2.6.144); and
- consider granting consent that allows for micro-siting to be undertaken to accommodate changes to the precise location of infrastructure in circumstances such as the discovery of marine archaeological remains (NPS EN3, paragraph 2.6.146).

Other Legislation and Policies

- 16.1.6. Other legislation, policies and guidance relevant to Historic Environment and Cultural Heritage are set out in the ES Chapter 14 – Offshore Archaeology and Cultural Heritage [APP-100, Paragraph 14.4,1] and in Chapter 21 - Onshore Archaeology and Cultural Heritage [APP-107, Paragraph 21.4,1]. Wider policy and legislative context is also provided in the ES [APP-088] [APP-285, Section 5] and in Chapter 3 of this Recommendation Report.
- 16.1.7. The Ancient Monuments and Archaeological Areas Act 1979 (as amended by the National Heritage Acts 1983 and 2002) protects scheduled monuments that may include the remains of vessels or aircraft.
- 16.1.8. The Protection of Wrecks Act 1973 provides protection for sites of designated wrecks including provision for a restricted area around the wreck site. The Protection of Military Remains Act 1986 provides protection for the wreckage of military aircraft and designated military vessels.
- 16.1.9. Policy SOC2 of the East Inshore and East Offshore Marine Plans (EIEOMP) provides protection for offshore and intertidal heritage assets.
- 16.1.10. Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 sets out requirements for the decision maker in connection with listed buildings and scheduled monuments (SMs).
- 16.1.11. Works affecting Listed Buildings and Conservation Areas are subject to the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, while those affecting Scheduled Monuments and Archaeological Areas of Importance must consider the Ancient Monuments and Archaeological Areas Act 1979 (as amended).
- 16.1.12. Schedule 9 of the Electricity Act 1989 places a duty on all transmission and distribution licence holders, in formulating proposals for new electricity infrastructure to amongst other things have regard to the desirability of protecting sites, buildings and objects of architectural, historic or archaeological interest.
- 16.1.13. The National Planning Policy Framework 2021 (NPPF) establishes that heritage assets should be conserved in a manner appropriate to their significance. Section 16 deals with conserving and enhancing the historic environment. It sets out the assessment requirements and consideration to be given to potential impacts, which are compatible with the policy position set out in NPS EN1.

16.2. THE APPLICATION

Environmental Statement (ES)

16.2.1. Chapter 14 of the ES, Offshore Archaeology and Cultural Heritage, includes a description of offshore and intertidal designated heritage assets and features of potential archaeological interest, as well as an assessment of the potential impacts of the Proposed Development [APP-100]. The Applicant's assessment and findings set out within this chapter are supported by technical reports and appendices including:

- 5) Archaeological Assessment of Geophysical Data [APP-199];
- 6) Archaeological Assessment of Geophysical Data - Addendum [APP-200];
- 7) Stage 1 Archaeological Assessment of 2021 Geophysical Data [APP-201];
- 8) Offshore Infrastructure Setting Assessment (Appendix 21.5) [APP-239]; and
- 9) Outline Written Scheme of Investigation (Offshore) [APP-298].

16.2.2. The Applicant's ES Chapter 21, Onshore Archaeology and Cultural Heritage [APP-107] contains an assessment of onshore archaeology and cultural heritage for construction, operational and decommissioning stages. It is supported by technical reports and appendices including:

- Onshore Archaeological Desk-Based (Baseline) Assessment (Appendix 21.1) [APP-229];
- Aerial Photographic, LiDAR Data and Historic Map Regression Analysis (Appendix 21.2) [APP-232];
- Aerial Photography and Historic Map Regression Addendum (Appendix 21.3) [APP-235];
- Onshore Substation Setting Assessment (Appendix 21.4) [APP-236];
- Priority Archaeological Geophysical Survey (Appendix 21.6) [APP-253]; and
- Archaeological and Geoarchaeological Monitoring Assessment (Appendix 21.7) [APP-258].

16.2.3. Cumulative effects on onshore archaeology and cultural heritage are covered in Chapter 21 [APP-107, section 21.7]. An outline Written Scheme of Investigation (WSI) for Onshore Archaeology was submitted with the application [APP-308] and revised as [REP2-031]. The WSI would be secured under Requirement (R) 18 of the draft Development Consent Order (DCO) [REP8-005].

Scope and Methodology

Offshore

16.2.4. The Applicant has identified a series of potential impacts on marine archaeology [APP-281, Table 2-23]. These are considered in terms of:

- direct impacts to heritage assets;
- indirect impacts to heritage assets associated with changes to marine physical processes;
- change to the setting of heritage assets which could affect their heritage significance; and
- change to character which could affect perceptions of the Historic Seascape Character (HSC).

16.2.5. The Applicant has identified the study area for Offshore Archaeology and Cultural Heritage as the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) wind farm sites and the offshore cable corridors (interlink and export cables), including the intertidal zone at the landfall up to Mean High Water Springs (MHWS). The study area identified by the

Applicant incorporates an Offshore Temporary Works Area, which is defined as the adjacent areas of seabed that may be subject to temporary works, such as anchoring or the use of jack up vessels.

16.2.6. The Applicant has noted [APP-281, Paragraph 454] that the key cultural processes which form the HSC within the offshore scoping area include:

- Palaeo landscapes (as part of the 10,000 year old land mass that bridged England with what is now main land Europe);
- World War II defence area (within the intertidal and coastal strip at the landfall only);
- wreck hazards and both historic and current navigation activities indicative of high historic maritime activity and the potential for maritime remains;
- fishing including bottom trawling, drift netting, fishing grounds, fixed netting and potting both historic, from the Medieval period onwards, and current; and
- a current industry and communications character associated with renewable energy, hydrocarbon pipelines and submarine telecommunications cables.

16.2.7. The Applicant consulted in a regular and formalised manner with members of Expert Topic Groups (ETGs), which were established to follow the majority of topics covered by the Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA). The ETGs comprised experts from relevant statutory and non-statutory bodies and one of their primary functions was to agree the relevance, appropriateness and sufficiency of baseline data for the more specific assessments which are detailed within the ES.

16.2.8. The ETG members for the topic areas identified by the Applicant are set out in its Consultation Report [APP-029]. Study areas and baseline environment characterisation relating to Historic Environment were agreed in final Statements of Common Ground (SoCGs) with Historic England (HE) [REP7-060], Norfolk County Council (NCC) [REP7-043], South Norfolk Council (SNC) [REP7-041] and Broadland District Council (BDC) [REP7-042]. Other members of the ETG deferred comment to other relevant members or did not cover this topic within their SoCGs.

Onshore

16.2.9. The Applicant has identified a series of potential impacts on onshore archaeology and cultural heritage [APP-107]. These are considered in terms of:

- direct physical impacts on (permanent change to) Designated Heritage Assets;
- direct physical impacts on (permanent change to) Non-designated Heritage Assets; and
- indirect physical impacts on (permanent change to) Designated and Non-designated Heritage Assets.

16.2.10. The Applicant has defined the study area for onshore archaeology and cultural heritage as the application Order limits landward from MHWS [APP-107, Section 21.3.1], with an appropriate buffer applied defined on the basis of:

- Non-designated Heritage Assets study area: defined by a 500 metre (m) boundary around (either side of) the application boundary; and
- Designated Heritage Assets study area: defined by a 1 kilometre (km) boundary around the application boundary.

16.2.11. The Applicant notes that there are 276 designated heritage assets within the 1km study area [APP-107, Section 21.5.2]. These are comprised of the following:

10) 13 Scheduled Monuments.

- 11) Five Registered Parks and Gardens.
- 12) 246 Listed Buildings.
- 13) 12 Conservation Areas.

- 16.2.12. In addition, the Applicant has identified one further designated heritage asset, Mannington and Wolterton Conservation Area, located partly within the Order limits and notes that the onshore cable corridor route would have a direct interaction with this asset as cable installation works would intersect the far-western edge of the Conservation Area.
- 16.2.13. The Applicant initially concentrated its heritage settings assessment on all designated heritage assets which it regarded as having a high heritage importance and afforded detailed attention to those assets that would be in the immediate vicinity of the above ground infrastructure and to assets of significant height or those situated on particularly high ground.
- 16.2.14. The Applicant has set out the designated heritage assets which it considers to be assets of medium or high heritage importance with perceived regional or national importance [APP-107, Section 21.5.2].
- 16.2.15. The Applicant has identified 1370 non-designated heritage assets within the 500m study area [APP-107, Section 21.5.3]. 237 are noted as falling within the Order limits with 216 being previously recorded non-designated heritage assets and a further 21 being previously unrecorded potential non-designated heritage assets identified by the Applicant through aerial photography, Laser imaging, Detection and Ranging (LiDAR) and historic mapping data.
- 16.2.16. Non-designated heritage assets potentially subject to direct physical impacts would be confined to those within the Order limits and may comprise potential subsurface archaeological remains and above ground heritage assets. Heritage assets which would be subject to indirect physical or non-physical impacts, associated with a change in setting are defined by the Applicant as either within or beyond the Order limits.
- 16.2.17. The Applicant acknowledges that it has not fully evaluated heritage assets within, or partly within, the Order limits which are considered to potentially represent surviving below ground archaeological remains through intrusive evaluation methods such as trial trenching [APP-107, Section 21.5.3.2].
- 16.2.18. In addition to analysis of data from aerial photography, LiDAR and historic mapping, the Applicant also describes a programme of priority archaeological geophysical survey (detailed magnetometry) undertaken at targeted locations with the objective of informing an understanding of the sub-surface archaeological potential within the Order limits [APP-107, Section 21.5.3.2] [APP-107, Table 21-10].

Applicant's Assessment of Effects and Proposed Mitigation

Offshore

- 16.2.19. The Applicant has established that there are no designated heritage assets within the Order limits offshore and concludes that the parameters of the Proposed Development, in any scenario, are sufficiently wide to accommodate micro-siting as part of both the potential cable route refinement process and wind farm design [APP-100, Section 14.3.3].
- 16.2.20. The Applicant has therefore concluded that there was no embedded mitigation relevant to the Offshore Archaeology and Cultural Heritage assessment of the ES at

application stage. It does, nevertheless, propose additional mitigation measures, set out within its WSI (Offshore) [APP-298] and secured within Condition 21 of the draft DMLs [REP8-005], comprising:

- geoarchaeological assessment;
- archaeological assessment of further geophysical data to be acquired post consent;
- refinement of the design of offshore infrastructure post consent to avoid Archaeological Exclusion Zones (AEZs) and additional geophysical anomalies of potential archaeological interest (where possible);
- further investigation where avoidance is not possible and additional mitigation to reduce or offset impacts should impacts be unavoidable; and
- implementation of a protocol for archaeological discoveries to address unexpected discoveries which might be encountered during planned activities.

16.2.21. The Applicant notes that there are no known seabed prehistory sites within the study area, although a number of paleogeographic features have been interpreted from geophysical survey data [APP-199].

16.2.22. The Applicant has identified 550 seabed features of archaeological interest (A1), or potential archaeological interest (A2 and A3) [APP-199] with the potential for the presence of further maritime and aviation archaeological material to be present.

16.2.23. The Applicant has identified 45 Historic Environment Records within the intertidal zone which are summarised in the ES [APP-100, Section 14.12]. The Applicant acknowledges that the potential for remains similar to those identified within the intertidal zone should be considered high but notes that no visible archaeological remains were observed during its site visit to inform the ES.

16.2.24. The Applicant acknowledges that there will remain a degree of uncertainty about the precise nature and extent of any direct impacts until it has completed its final design and confirmed layouts. However, it anticipates that the proposed use of Horizontal Directional Drilling (HDD) with entry on the landward side of the cliffs at Weybourne and exit below Mean Low Water Springs (MLWS) in the subtidal zone would result in impacts to potential intertidal archaeological material being avoided.

16.2.25. The Applicant notes [APP-100, Section 14.6.1.2.5] that any unexpected archaeological finds would be monitored and reported using the established Protocol for Archaeological Discoveries: Offshore Renewables Projects (ORPAD, The Crown Estate, 2014). If discovered, the Applicant confirms that features of this type would be subject to the same mitigation as known heritage assets, as set out in its Outline WSI (Offshore) [APP-298].

16.2.26. ES Chapter 14 concluded that there would be no potential for significant transboundary effects in relation to the historic environment offshore and that the inter-relationship of effects on marine archaeology would not be expected to cause an impact of greater significance than if assessed individually [APP-100, Section 14.8].

16.2.27. Potential beneficial effects have also been identified in relation to both cumulative and transboundary impacts, through the contribution of data to academic and scientific objectives, and public outreach and engagement, both within the UK and wider European networks. The Applicants approach to delivering these objectives would be established post-consent in consultation with key stakeholders, including HE, and set out in the Outline WSI (Offshore) [APP-298].

16.2.28. The Applicant's conclusion in the ES states that the residual adverse effects of the Proposed Development on Offshore Archaeology and Cultural Heritage would be at worst minor adverse.

Onshore

16.2.29. The Applicant's proposed embedded mitigation that is common across the Proposed Development is summarised in the ES [APP-090].

16.2.30. Embedded mitigation specific to Onshore Archaeology and Cultural Heritage are described by the Applicant in the ES [APP-107, Section 21.3.3]. For both designated and non-designated heritage assets, the Applicant has undertaken a route refinement process to avoid all heritage assets wherever possible within the Order limits.

16.2.31. Additional Mitigation specific to Onshore Archaeology and Cultural Heritage is identified by the Applicant [APP-107, Section 26.6.1.2.3] and set out in the outline WSI (Onshore) [APP-308] as follows:

- 1) Further advance and enacting of preservation in situ options and requirements (e.g. avoidance/micro-siting/HDD etc. where possible);
- 2) Set-piece (open-area) Excavation: including subsequent post-excavation assessment, and analysis, publication and archiving;
- 3) Strip, Map and Record (or Sample) Excavation: including subsequent post-excavation assessment, and analysis, publication and archiving;
- 4) Watching Brief (targeted and general archaeological monitoring and recording): including subsequent post-excavation assessment, and analysis, publication and archiving (where appropriate);
- 5) Earthwork Condition Surveys: including subsequent reporting and archiving (followed by backfilling and reinstatement, where required on a case-by-case basis); and
- 6) Geoarchaeological/Palaeoenvironmental Surveys: including subsequent reporting, deposit model and archiving.

16.2.32. The Applicant proposes that it would minimise impact to the Historic Landscape Characterisation by returning field boundaries / areas/ hedgerows to their pre-construction condition and character post-construction. The Applicant acknowledges that there might be certain hedgerows and field boundaries that would need to be recorded prior to construction with enhanced mitigation provisions allowed for in these cases.

16.2.33. The Applicant's preferred and optimum mitigation measure would be preservation in-situ wherever possible. This would be achieved in the first instance by avoiding sub-surface archaeological remains, either largely or in their entirety. Where avoidance would not be possible, the Applicant proposes that it would be acceptable to off-set impacts upon sub-surface archaeology, where present, by record.

16.2.34. The Applicant acknowledges [APP-107, Section 26.6.1.2.3] that preservation by record would not be considered to reduce the magnitude of impact and significance of effect, it concludes that the acquisition of a robust archaeological record of a site or feature could be considered to adequately compensate identified, recognised and acceptable harm to a heritage asset.

16.2.35. The Applicant has concluded in the ES that the residual adverse effects of the Proposed Development on Onshore Archaeology and Cultural Heritage would be minor adverse at the landfall location, along the onshore cable corridor and at the onshore substation site.

16.3. LOCAL IMPACT REPORTS

Broadland District Council

- 16.3.1. BDC [REP1-066] have highlighted one area of historic parkland – Honingham Hall Park wherein remnants of the historic estate remain within the Order limits in the form of “The Broadway” and “Ringland Covert”. BDC consider that these parkland areas have a low degree of heritage significance as part of a non-designated heritage asset which are of local importance only. BDC consider that there would be minor short-term harm to these non-designated heritage assets which is low adverse and that there would be no long-term harmful impact; it does not consider that the Proposed Development would result in long term harm and concludes that harm in the EIA matrix would be negligible.

North Norfolk District Council

- 16.3.2. NNDC [REP1-082] note that there would be some impacts to heritage assets and their settings, but that these would occur primarily at the construction stage of the project and would therefore be of a temporary nature. NNDC have formed the view that these impacts would all be on the ‘less than substantial’ scale. In addition, it considers that the operational phase of the Proposed Development would be unlikely to result in unacceptable impacts. NNDC conclude that the benefits associated with the Proposed Development would more than outweigh any harm to heritage assets within North Norfolk District.

South Norfolk Council

- 16.3.3. SNC [REP1-090] highlight three heritage assets where their setting would be impacted by the onshore substation element of the Proposed Development: Church of St Peter, Church of Holy Cross and Church of St Mary Magdalene. SNC agree with the Applicant’s assessment of negligible or non-significant impact on the setting of St Peter’s Church and of no significant adverse impact on both Church of Holy Cross and Church of St Mary Magdalene.
- 16.3.4. SNC also makes reference in its LIR to a request in its RR [AS-034] for further clarification regarding the impact of the Proposed Development on Ketteringham Hall Park which is considered a non-designated heritage asset of local importance only and of low importance. SNC has identified two plantation areas within Ketteringham Hall Park: “The Oval” and “Norwich Hill” which would be impacted by the Proposed Development during the construction stage. SNC consider that the potential impacts on these areas would be minor temporary short-term but not long term and that therefore there would be negligible short-term harm and no long-term harm.

Norfolk County Council

- 16.3.5. NCC [REP1-080] raised a comment on wording present within the outline WSI. It notes its Historic Environment Service has moved away from the use of the term ‘strip, map and sample excavations’ as these can create the false impression of a faster and less rigorous piece of work when compared to a ‘set-piece (open-area) excavation’. NCC favours the use of the term ‘excavation’ for large scale mitigation taking place both prior to and during the construction programme.

16.4. THE EXAMINATION

- 16.4.1. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on are:

- 1) the timing of further geotechnical work; and
- 2) the Applicant's outline WSI;

- 16.4.2. The ExA has noted that the LIRs submitted by Local Authorities (LAs) are essentially advisory in nature when addressing the topic of the onshore historic environment. No concerns relating to adverse effects on designated or non-designated heritage assets were raised in LIRs. The Applicant has assessed impacts on Conservation Areas and Listed Buildings in its Onshore Archaeology and Cultural Heritage Chapter [APP-107] and while it has noted the further comments related to non-designated heritage assets set out in LIRs, the Applicant has not responded further.
- 16.4.3. The ExA was satisfied with this response and did not pursue matters raised in LIRs related to historic environment and cultural heritage onshore further during the Examination.

Timing of further geotechnical survey work

- 16.4.4. HE [REP1-112] raised a concern that the use of exclusively desk-based studies, coupled with the relative age of some survey datasets used by the Applicant could lead to a risk that previously unknown historic sites within the offshore temporary works area could now be exposed, due to the dynamic nature of the seabed.
- 16.4.5. The Applicant responded [REP2-017] that, it would carry out a post-consent review of all relevant data in order to determine the suitability of existing data and to identify any data gaps. This exercise would then inform the Applicant's acquisition of further preconstruction geophysical data.
- 16.4.6. The ExA sought further evidence and asked HE for further comment [PD-010, Q1.15.1.2]. HE recognised [REP1-113] that for survey data anomalies categorised as "A2" ("uncertain origin of possible archaeological interest") AEZs were not recommended at this time and acknowledged the risk that A2 anomalies currently identified could be of significant archaeological interest. It balanced this view with the observation that, given the large number of A2 anomalies identified, it was possible that some may be instances of contemporary debris with no historic significance.
- 16.4.7. HE accepted the strategy adopted by the Applicant [REP2-017] that it would include an Outline Marine WSI [APP-298], which would be delivered as a condition within the draft Deemed Marine Licences (dDMLs) [APP-024]. HE agreed that this would be an effective proposed means of ensuring all survey work conducted post-consent and pre-construction would be informed by archaeological objectives to qualify and quantify the presence of features, anomalies or other sites of archaeological or historic interest.

The Applicant's outline WSI

- 16.4.8. HE [REP1-112] expressed concern that archaeological analysis of geophysical survey data has not been carried out by the Applicant within the proposed offshore temporary works area. The same concerns were raised by HE relating to the identification of unknown archaeological heritage onshore with a recommendation that post-consent survey work onshore should be more comprehensive in its coverage. HE also noted that it would be essential for any new survey data procured prior to the commencement of any construction works to also be subject to archaeological analysis and that this be secured within the dDCO.
- 16.4.9. The Applicant acknowledged the issues raised by HE with respect to this matter and noted [REP2-017] that its outline WSI [APP-298] includes a commitment to retaining the services of a suitably qualified and experienced archaeological contractor as the

'retained archaeologist' to oversee and ensure the successful implementation of the final Offshore WSI and contractual commitments relating to archaeology.

- 16.4.10. In addition, the Applicant noted that its outline WSI (Offshore) [APP-298, section 1.5.1] sets out a commitment to the archaeological interpretation of new survey data and the methodological approach to subsequent archaeological analysis.
- 16.4.11. Finally, the Applicant noted that both of these commitments are secured through Condition 13(1)(e) of Schedules 10 and 11 and Condition 12(1)(f) of the dDCO [REP8-005].
- 16.4.12. In relation to archaeological heritage onshore, the Applicant noted [REP2-017], that it had committed to undertake a post-consent project-wide geophysical survey which would include a project-wide programme of trial trenching to sample apparent blank areas and to evaluate the known and potential archaeological anomalies identified from earlier desk-based and non-intrusive survey work, as detailed in its outline WSI (Onshore) [REP2-031] and secured through R18 of the draft DCO [REP8-005]
- 16.4.13. The ExA was satisfied with the Applicant's responses to these matters and did not pursue this topic further in the Examination.
- 16.4.14. At the end of the Examination, the Applicant submitted final signed SoCGs with HE relating to both the offshore and onshore historic environment [REP7-060], SNC [RE7-041], BDC [REP7-042] and NCC [REP7-043]. All matters related to historic environment were agreed with all parties (subject to agreement post-consent of a WSI).

ExA's Reasoning

- 16.4.15. The ExA is satisfied that all Interested Parties' (IP) concerns raised during the Examination were satisfactorily answered and that the Marine WSI that would be secured by the Applicant's final dDCO [REP8-005] would enable adequate HE engagement to manage this matter in consultation with the Marine Management Organisation (MMO) under the post-consent marine licensing procedures.
- 16.4.16. With regards to the potential impact on onshore archaeology, the ExA is satisfied that, should archaeological finds be discovered during construction, the WSI secured by R18 of the final draft DCO [REP8-005] would ensure that they would be protected, recorded or preserved as secured. Part 18(1) of the Requirement ensures that HE and NCC would be consulted on the detail of the WSI and that it would be submitted to and approved by the relevant LA prior to the commencement of onshore works.
- 16.4.17. The ExA considers that there would be no substantial harm from the construction or operation of the Proposed Development, either physically or on the setting of any heritage assets, including non-designated assets. The Proposed Development would not result in the loss of any designated or non-designated assets, and should new assets be found in the form of archaeological remains, the ExA is satisfied that there would be measures in place to ensure that they were adequately protected.

16.5. CONCLUSIONS

- 16.5.1. On the basis of the evidence and the proposed mitigation that would be secured in the rDCO, the ExA considers that all impacts have been addressed such that the Proposed Development would not result in any harm to the historic environment. Furthermore, there is potential for public benefit to derive from archaeological investigation undertaken as part of the Proposed Development.

- 16.5.2. Based on its Examination, the ExA considers that policy requirements with regard to archaeology and the historic environment in NPS EN1 and NPS EN3, and relevant marine plans have been met.
- 16.5.3. The ExA is content that the Applicant has sought to identify and assess the particular significance of any heritage asset that may be affected including the setting of the heritage asset in accordance with NPS EN1 paragraphs 5.8.11 to 5.8.13.
- 16.5.4. The ExA is satisfied that the Applicant has secured methodologies to record and advance understanding of the significance of heritage assets, proportionate to the degree of significance of the asset in accordance with an agreed and secured written scheme of investigation, as required by NPS EN1 paragraphs 5.8.20 and 5.8.21.
- 16.5.5. The ExA further notes that the Applicant has put in place Requirements to secure appropriate identification and treatment of potential assets discovered during construction in accordance with NPS EN1 paragraph 5.8.22.
- 16.5.6. The ExA is satisfied that the design of the Proposed Development has considered known heritage assets and their status, notably designated Protected Wrecks in accordance with NPS EN3, paragraph 2.6.144
- 16.5.7. The ExA also considers that policy relevant to marine archaeology in the EIEOMP has been complied with.
- 16.5.8. Accordingly, the ExA is satisfied that the Proposed Development would have no likely significant effects on the historic environment and is satisfied that mitigation would be adequately provided for and secured through the rDCO, if made. In this respect, the ExA consider that both offshore and onshore historic environment matters would attract neutral weight in the case for the Proposed Development for all Development Scenarios.

17. SEASCAPE AND VISUAL EFFECTS

17.1. BACKGROUND AND POLICY CONTEXT

17.1.1. Landscape and Visual Effects have been identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on seascape character and views, effects during construction and effects on designated and historic landscapes, including Norfolk Coast Area of Outstanding Natural Beauty (AoNB) and North Norfolk Heritage Coast (NNHC).

National Policy Statement (NPS)

17.1.2. The assessment for Seascape and Visual Effects as set out in the Overarching National Policy Statement for Energy (NPS EN1, Section 5.9) and the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) requires from the Applicant:

- to provide an assessment that includes the effects during construction and operation on landscape components and landscape character (including the visibility and conspicuousness and light pollution effects (NPS EN1 paragraph 5.9.6 and 5.9.7);
- to provide an assessment of impacts on seascape in addition to landscape and visual effects in circumstances where a proposed offshore windfarm would be visible from the shore (NPS EN3, paragraph 2.6.202); and
- to undertake a cumulative assessment of Seascape and Visual Impacts (NPS EN1 Section 4.2).

17.1.3. In reaching a decision the Secretary of State (SoS) should be satisfied that:

- Substantial weight has been given to the conservation of the natural beauty of the landscape and countryside when the Proposed Development is within nationally designated landscapes, and when deciding on applications for development consent in these areas (NPS EN1 paragraph 5.9.9);
- And that if development is proposed in these areas that it would be in the public interest. Applications should include an assessment of the need for the development, the cost of developing elsewhere or meeting the need in some other way and the detrimental effect on the environment, the landscape and recreational opportunities (NPS EN1 paragraph 5.9.10).
- The Applicant has had regard to the purposes of nationally designated areas. This also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them. The aim should be to avoid compromising the purposes of designation and such projects should be designed sensitively given the various siting, operational, and other relevant constraints (paragraph 5.9.12). The possibility that any Proposed Development might be visible from a designated area should not in itself be a reason for refusal (NPS EN1 paragraph 5.9.13).
- An alternative layout within the Order limits could reasonably be proposed which would minimise any harm, taking into account other constraints that the applicant has faced such as ecological effects, while maintaining safety or economic viability of the application (NPS EN3. Paragraph 2.6.208).

Other Legislation and Policies

17.1.4. The legislation and guidance relevant to Seascape and Visual Effects is set out in Environmental Statement (ES) Chapter 25 [APP-111, Section 25.4.1]. The Applicant's Planning Statement sets out the national, regional and local planning

policies that are considered relevant to the Proposed Development [APP-285, Section 5].

- 17.1.5. Paragraph 176 of the National Planning Policy Framework NPPF sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.
- 17.1.6. Paragraph 177 of the NPPF continues by establishing that applications for development in National Parks, the Broads and Areas of Outstanding Natural Beauty (AoNB) should be refused permission, other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.
- 17.1.7. Paragraph 178 of the NPPF notes that within areas defined as Heritage Coast which do not already fall within one of the designated areas mentioned in paragraph 176 (National Parks, the Broads and AoNBs), planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate unless it is compatible with its special character.

17.2. THE APPLICATION

Environmental Statement

- 17.2.1. The Applicant's assessment of Seascape and Visual Effects is set out in the ES in Chapter 25 Seascape and Visual Impact Assessment [APP-111], Other application documents that are relevant include Chapter 25 Seascape and Visual Impact Figures [APP-135 to APP-152] and Appendices to the Seascape and Visual Impact Assessment [APP-274].

Scope and Methodology

- 17.2.2. The Applicant consulted in a regular and formalised manner with members of Expert Topic Groups (ETGs), which were established to follow the majority of topics covered by the Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA). The ETGs comprised experts from relevant statutory and non-statutory bodies and one of their primary functions was to agree the relevance, appropriateness and sufficiency of baseline data for the more specific assessments which are detailed within the ES.
- 17.2.3. The ETG members for the topic areas identified by the Applicant are set out in its Consultation Report [APP-029]. Study areas and baseline environment characterisation relating to Seascape and Visual Impact were agreed in a final Statement of Common Ground (SoCGs) with North Norfolk District Council (NNDC) [REP8-045]. With the exception of NE, other members of the ETG deferred comment to other relevant members or did not cover this topic within their SoCGs.
- 17.2.4. The Applicant's ES [APP-111] confirms that a study area of 50 kilometers (km) from the offshore turbine arrays was agreed with the relevant consultees as being appropriate to cover all potentially material seascape landscape and visual impacts. The Applicant illustrates the extent of the study areas for both Sheringham Extension Project (SEP) and Dudgeon Extension Project (DEP) in the ES [APP-135, Figure 25.1] and [APP-135, Figure 25.2].
- 17.2.5. Zone of Theoretical Visibility (ZTV) studies carried out by the Applicant indicate that a degree of theoretical visibility of wind turbine hub height would be available up to approximately 55km from the outermost wind turbines for both SEP and DEP,

although the Applicant notes that effects would be unlikely to occur beyond 50km. As a result, effects on seascape, landscape and visual receptors within 50km of the Proposed Development have been scoped in to the Applicant's assessment.

- 17.2.6. In line with the Rochdale envelope, the Applicant has considered the worst-case scenario for the following parameters of the Proposed Development in relation to its Seascape Visual Impact Assessment (SVIA):
- the maximum footprint and height above sea level that the turbines could occupy;
 - height of the turbine hubs and blades;
 - quantity of the turbines;
 - arrangement of the turbines, and their perceived visual density/relationship with landform/perspective;
 - effect of Earth's curvature upon different layouts;
 - relation of turbines with horizon and views of open sea; and
 - relation of turbines with existing offshore wind farms.
- 17.2.7. The Applicant identified and tested two scenarios when arriving at a realistic worst-case scenario for its SVIA. Within these scenarios, turbine height and number were identified as variables. The Applicant describes its scenarios as:
- 1) Larger number of smaller wind turbines representing greater development density.
 - 2) Smaller number of larger wind turbines in terms of turbine height and contrast with the existing Offshore Wind Farm (OWF) height and density.
- 17.2.8. After assessing wireline studies of the scenarios described above, the Applicant has concluded that scenario 2 represents the realistic worst-case [APP-111, paragraph 20] due to larger turbines being more visible from more locations and at greater distances than smaller turbines and representing a greater contrast in size, spacing and density when viewed against existing turbines in the area.
- The Applicant has used this realistic worst-case as the basis for indicative schemes for SEP and DEP to inform its ZTVs [APP-135, figure 25.9], [APP-136, figure 25.10] and [APP-137, figure 25.13 – figure 25.20] as well as indicative visual representations of the Proposed Development offshore [APP-138] to [APP-152]. This realistic worst-case comprises an array of 26 Megawatt (MW) wind turbines, 180 metres (m) to hub and 330m to blade tip height above sea level. With 13 wind turbines proposed for SEP and 17 wind turbines proposed for DEP.
- 17.2.9. The Applicants SVIA assessment methodology [APP-274]. follows the Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA3).
- 17.2.10. The Applicant has determined [APP-111, paragraph 133] that the boundary between seascape and landscape character assessments for the purposes of its SVIA is seaward of the low water mark. This is also the boundary of the Norfolk Coast AoNB.
- 17.2.11. A seascape character assessment for the East Inshore and East Offshore Marine Plan (EIEOMP) areas was published by the Marine Management Organisation (MMO) in 2012. Study areas for SEP and DEP are situated within marine plan areas 3 and 4 (East Inshore and East Offshore respectively). Seascape Character Areas (SCAs) located within the study areas are set out by the Applicant in the ES [APP-111, section 25.5.5].
- 17.2.12. The Applicant's ZTV studies indicate that there would be potential visibility of the Proposed Development from three SCAs, namely:

- 1) East Midlands Coastal Waters (SCA 7);
- 2) Norfolk Coastal Waters (SCA 9); and
- 3) East Midlands Offshore Gas Fields (SCA 3).

- 17.2.13. Seascape baselines for SCAs 03, 07 and 09 were agreed with NE.
- 17.2.14. Both the Broads National Park and Norfolk Coast AoNB lie within the extent of the study areas for the Proposed Development. These are defined as landscapes of national importance with the primary purposes to conserve and enhance the natural beauty of the landscape.
- 17.2.15. The Applicant's analysis of ZTVs indicates that both SEP and DEP would theoretically be visible from the Norfolk coast and elevated inland landform within the extents of the Norfolk Coast AoNB.

Applicant's Assessment of Effects and Proposed Mitigation

- 17.2.16. The Applicant's proposed embedded mitigation that is common across the Proposed Development and relevant to Seascape is summarised in the ES [APP-111, Section 25.3.3]. Seascape, landscape and visual matters informed the selection of the SEP and DEP Areas for Lease (AfL) at the outset of the projects. The Applicant proposes to minimise as far as possible the inclusion of the SEP AfL between the southern edge of the existing Sheringham Shoal OWF and the Norfolk coast due to the proximity of sensitive land-based receptors, and to ensure a sufficient gap between SEP and Race Bank OWF. Other factors such as a combined cable corridor and landing have been included within the Applicant's proposals in order to help to reduce potential impacts.
- 17.2.17. The Applicant has concluded that operational effects resulting from the Proposed Development on seascape landscape and visual receptors would extend beyond the Long Term definition in its assessment methodology [APP-111, Section 25.4], but reasons that the proposed wind farm sites would be temporary and would be removed after their proposed operating life of 40 years. The Applicant does not, therefore assess operational effects as permanent. The Applicant has proposed no additional mitigation beyond the embedded mitigation described above in section 17.2.17.
- 17.2.18. The Applicant notes [APP-111, Section 25.11] that either SEP or DEP in-isolation, or SEP and DEP combined would extend existing offshore wind farms within areas of sea that are currently influenced by the presence of Sheringham Offshore Wind Farm (SOW) and Dudgeon Offshore Wind Farm (DOW) adjoining the sites and other existing offshore wind farms in the wider seascape. SEP and/or DEP would be visible from the sea and the Norfolk coast, seen in the context of existing wind farms at Inner Dowsing, Lincs, Lynn, Race Bank, Triton Knoll, SOW and DOW are already characteristic of the existing seascape character, and of views from and the setting of landscape character areas, the Norfolk Coast Area of Outstanding Natural Beauty and the North Norfolk Heritage Coast.
- 17.2.19. The Applicant identifies potential significant adverse effects on seascape during the operational phase of the Proposed Development due to SEP on the settlements of Cromer and Sheringham; the Peddars Way, Norfolk Coast Path and England Coast Path; visual receptor group Blakeney to Mundesley; and the viewing gazebo at Oak Wood. Significant effects during the operational phase have been identified due to DEP on the Peddars Way, Norfolk Coast Path and England Coast Path. Operational effects if both SEP and DEP were to be implemented are judged by the Applicant to be the same significance as the worst-case in-isolation.

- 17.2.20. Significant effects during the construction and decommissioning phases have been identified due to SEP on the Peddars Way, Norfolk Coast Path and England Coast Path, and visual Receptor Group Blakeney to Mundesley. No significant effects have been identified by the Applicant for DEP during the construction and decommissioning phases.
- 17.2.21. The conclusion in the ES states that the residual adverse effects of the Proposed Development on Seascape would be similar or greater than effects during construction and decommissioning phases of SEP and/or DEP and summarises the numerous operational effects that it has identified in the ES [APP-111, Section 25.11].

17.3. LOCAL IMPACT REPORTS

- 17.3.1. There were no substantive matters related to Seascape and Visual Impact raised in LIRs from Broadland District Council (BDC), South Norfolk Council (SNC), North Norfolk District Council (NNDC) or Norfolk County Council (NCC).

17.4. THE EXAMINATION

- 17.4.1. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:

- 1) The assessment of effects of the Proposed Development on the Norfolk Coast AoNB in EIA terms; and
- 2) The requirement for a cumulative effects assessment (CEA) to inform the EIA.

- 17.4.2. During the course of the Examination and the pre-examination period, the Examining Authority (ExA) carried out a series of unaccompanied site inspections (USIs) [EV-094] in order to observe the areas potentially affected by the Proposed Development at first hand. The insights gained during these USIs have been taken into account by the ExA in its conclusions on the matters set out below.

The assessment of effects of the Proposed Development on the Norfolk Coast AoNB in EIA terms

- 17.4.3. NE noted that whilst it had agreed baselines for SCAs 03, 07 and 09 with the Applicant [RR-063], it was their view that the baseline for the assessment of the Proposed Development was already compromised and that the presence of existing windfarms, including the Sheringham Shoal array has eroded the natural beauty of the designation and therefore compromised the statutory purpose of the Norfolk Coast AoNB.
- 17.4.4. Natural England (NE) [RR-063, Appendix H] set out its view that the effect of the proposed development on the NCAoNB would be major-moderate, adverse, unacceptable, and significant in EIA terms and that this would be a likely significant effect on the statutory purpose of the Norfolk Coast AoNB.
- 17.4.5. The ExA sought to examine this topic further at Issue Specific Hearing (ISH) 2 [EV-005] [EV-021]. The Applicant reaffirmed its assessment as set out in the ES [APP-111] that there would be moderate adverse effects on landscape character and views within the Norfolk Coast AoNB and cited as an example its findings in the ES of significant effects on views from a viewpoint on Peddars Way as evidence that the cumulative impacts of the Proposed Development were considered.
- 17.4.6. The ExA requested an assessment of the effects of the Proposed Development on the Norfolk Coast AoNB in EIA terms from Local Authorities (LAs) [PD-010,

Q1.18.3.2]. In response, SNC, BDC and NCC all deferred NNDC as the appropriate authority to respond. NNDC, in turn responded [REP2-058] that in their view the Proposed Development would add similar elements to the existing baseline seascape, and due to the increased scale of the structures, the extended array would be more apparent in views from onshore. However, it did not consider that this would significantly alter the ability to experience the natural and scenic beauty of the designated AoNB.

17.4.7. In its second Written Questions (WQ2) [PD-012], the ExA sought further views on the same issue from Norfolk Coast Partnership (NCP). In response [REP3-149], [REP5-102], NCP noted that the Proposed Development would impact on the following special Qualities of Natural Beauty (QNB) of the AoNB:

- Special Quality 2: Strong and distinctive links between land and sea;
- Special Quality 3: Diversity and integrity of landscape, seascape and settlement character; and
- Special Quality 6: Sense of remoteness, tranquility and wildness.

17.4.8. NCP [REP5-102] deferred further comment on Seascape and Visual Impact matters to NCC, NNDC and NE.

17.4.9. The Applicant [REP7-068] acknowledged the impacts raised by NCP, but highlighted that NCP did not state that the impacts that it had identified would be significant in EIA terms and that this response aligned with the positions held by the Applicant and NNDC. The Applicant further identified that NCP did not suggest that the integrity of the Norfolk Coast AoNB would be breached, or that the general public's experience, enjoyment and use of the Norfolk Coast AoNB would be significantly impacted. With this in mind, the Applicant declared itself to be in alignment with NCP on these matters. NCP did not respond further during the Examination. The ExA was satisfied that it had received sufficient representation from the Applicant and Interested Parties (IPs) and did not pursue this matter further in the Examination.

17.4.10. At the close of the Examination, NE [REP8-042] remained in disagreement with the Applicant over the lack of a CEA to inform the EIA in order to ensure that the impact of the Proposed Development on the statutory purpose of the Norfolk Coast AoNB, in the context of existing windfarms visible from the AoNB can be assessed.

17.4.11. At the close of the Examination, NE remained in disagreement with the Applicant over its judgement of significance of the impact on the Norfolk Coast AoNB, as set out in the final SoCG between the Applicant and NE [REP8-032].

17.4.12. NE also remained in disagreement with the Applicant over its judgement of the Proposed Development's impact significance on the Norfolk Coast AoNB as medium-low magnitude, moderate-slight significance. NE judge this same impact as medium magnitude and major-moderate significance.

ExA's Reasoning

17.4.13. The ExA recognises that the Proposed Development would add additional wind turbine structures to the seascape and that these would be visible from some areas of the Norfolk Coast AoNB. The ExA further recognises that whilst any new wind turbines would be constructed within a seascape context which already includes offshore windfarms, the scale of the turbines within the Proposed Development would be greater, albeit that they would be fewer in number.

17.4.14. In the absence of agreement between the Applicant and NE on this issue at the close of the Examination, it falls to the ExA to form a judgement on the impact of the

Proposed Development in this context. The ExA has relied on the submissions to the Examination on this issue from NCP and NNDC, that the visual impact of the Proposed Development on the Norfolk Coast AoNB would not significantly alter the ability to experience the natural and scenic beauty of the AoNB or that there would be significant impact on the general public's experience, enjoyment and use of the Norfolk Coast AoNB.

- 17.4.15. The ExA is mindful of the reasoning put forward by the Applicant, generally supported by NNDC that there would undoubtedly be visual impact from the additional wind turbine arrays within the Proposed Development, but that overall this would not significantly alter the ability to experience the natural and scenic beauty of the AoNB.
- 17.4.16. Given the relative difference in scale between the turbines within the existing OWF arrays and those of the Proposed Development, the ExA agrees with NE that in the case of the scenario with greatest visual impact on the Norfolk Coast AoNB, the Proposed Development should be assessed as having medium magnitude in EIA terms.
- 17.4.17. The ExA agrees with the Applicant's case, put forward during the examination that the Norfolk Coast AoNB's QNB 2, 3 and 6 would not be significantly impacted by the Proposed Development. As a result, the ExA takes the view that QNB 2, 3 and 6 would be conserved but finds no evidence to support a finding that they would be enhanced in the operational phase of the Proposed Development.

The requirement for a CEA to inform the EIA

- 17.4.18. NE [RR-063, Appendix H] advised that a CEA should be undertaken to inform the EIA in order to ensure that the impact of the Proposed Development on the statutory purpose of the Norfolk Coast AoNB could be made.
- 17.4.19. NE further advised that the statutory purpose of the Norfolk Coast AoNB was already compromised by the existing OWFs visible from the coastline and that the Proposed Development would compromise this further. NE have advised that it is critical that the additional impact of the Proposed Development might have on the statutory purpose of the Norfolk Coast AoNB is understood and that this impact should be assessed independently of impacts from the Proposed Development on the wider landscape, seascape and visual resource.
- 17.4.20. The ExA examined the need for a CEA as advised by NE [PD-010, Q1.18.3.3]. In response the Applicant noted its view [REP1-036] that a CEA which assesses the harm from the Proposed Development in addition to the harm from the existing OWF would be an uncommon approach and would be contrary to the approach taken on recent Nationally Significant Infrastructure Project NSIP applications.
- 17.4.21. The Applicant continued that it was an agreed position that the existing OWFs are part of the baseline and that its SVIA [APP-111] considers the effects from the Proposed Development on this baseline. The Applicant further confirmed that it had undertaken an additional assessment in relation to the impacts on the Norfolk Coast AoNB which includes a cumulative effects assessment [APP-311] that considered impacts on the special QNBs identified for the Norfolk Coast AoNB.
- 17.4.22. The ExA notes from the Applicant's Assessment of the Impacts on the Qualities of Natural Beauty of Norfolk, that the most current overall assessment of QNBs 2, 3 and 6 undertaken by NCP in 2012 are judged to have the status 'Amber – some grounds for concern'.

- 17.4.23. In response to the same question topic, NNDC [REP2-058] noted that they considered that it was important to assess the cumulative effect on the seascape of the addition of the Proposed Development to the existing OWF installation.
- 17.4.24. No additional information was submitted to the ExA by NE in relation to this issue and at the close of the Examination both parties remained in disagreement over the need for a CEA as advised by NE. The final SoCG between the Applicant and NE [REP8-042] highlights this matter as one which is not agreed and which has a material impact.

ExA's Reasoning

- 17.4.25. The ExA concludes that while the impact on the Norfolk Coast AoNB should be assessed as having moderate significance and medium magnitude, there is no evidence in Examination which demonstrates that the impact of the Proposed Development would be so significant as to change the assessment status of QNB 2, 3 and 6 to indicate that these qualities are no longer being conserved and enhanced.
- 17.4.26. The ExA is persuaded by the evidence submitted by the Applicant that an assessment in relation to the impacts on the Norfolk Coast AoNB, which included a CEA that considered impacts on the special QNBs identified for the AoNB, was carried out. The ExA further notes the submission from the Applicant that, on the basis of precedent set by Development Consent Order applications for other OWF developments, it would not be a standard approach to carry out a CEA which assessed the harm from the Proposed Development in addition to the harm from the existing OWF.

17.5. CONCLUSIONS

- 17.5.1. The ExA concludes that on the matter of the assessment of effects of the Proposed Development on the Norfolk Coast AoNB in EIA terms, QNB 2, 3 and 6 would not be significantly impacted by the Proposed Development. The ExA therefore takes the view that QNB 2, 3 and 6 would be conserved but finds no evidence to support a finding that they would be enhanced in the operational phase of the Proposed Development. The ExA is persuaded that the impact on the Norfolk Coast AoNB would be of moderate significance and medium magnitude.
- 17.5.2. The ExA concludes that sufficient evidence has not been presented to it to demonstrate that the impact of the Proposed Development would be so significant as to change the assessment status of QNB 2, 3 and 6 of the Norfolk Coast AoNB to indicate that these qualities are no longer being conserved and enhanced.
- 17.5.3. The ExA is satisfied that the Applicant has carried out an assessment in relation to the impacts on the Norfolk Coast AoNB, which included a CEA that considered impacts on the special QNBs identified for the AoNB and, in the absence of further evidence to support the case for CEA put forward by NE, it concludes that a request to carry out a CEA which assessed the harm from the Proposed Development in addition to the harm from the existing OWF would not be justified in this case.
- 17.5.4. The ExA finds that the Applicant has provided an assessment of impacts on seascape in addition to landscape and visual effects in circumstances where a proposed offshore windfarm would be visible from the shore in accordance with NPS EN3, paragraph 2.6.202 and that it has undertaken a cumulative assessment of Seascape and Visual Impacts in accordance with NPS EN1 Section 4.2.

- 17.5.5. The ExA is satisfied that the Applicant has had regard to the purposes of nationally designated areas and has taken reasonable precautions to avoid compromising the purposes of designation in accordance with NPS EN1, paragraph 5.9.12.
- 17.5.6. Based on the findings set out above, the ExA considers that policy requirements with regards to seascape and visual resources in NPS EN1 and NPS EN3 have been met through consultation and assessment of the impact of the Proposed Development on seascape and visual resources during its construction, operation and decommissioning phases.
- 17.5.7. Taking all of this into account, the ExA concludes that there would be some inevitable impact on seascape and visual resources alone and cumulatively as a result of the Proposed Development and it considers that these would carry minor weight against the case for the Proposed Development for all Development Scenarios.

ONSHORE PLANNING MATTERS

18. TRAFFIC AND TRANSPORT

18.1. BACKGROUND AND POLICY CONTEXT

18.1.1. Traffic and transport was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This section considers the potential traffic and transport effects of the Proposed Development in relation to the onshore project area and the routes that would be used for construction traffic. The effect on recreational routes, such as Public Rights of Way (PRoW) is also considered in this chapter. Noise and vibration effects from construction traffic is considered in Chapter 19 of this Recommendation Report.

National Policy Statement

18.1.2. The assessment for traffic and transport as set out in the Overarching National Policy Statement for Energy (NPS EN1) requires from the Applicant:

- a transport assessment using a methodology set out by current Government guidance (NPS EN1, Paragraph 5.13.3);
- to consult the relevant Highways Authorities (NPS EN1, Paragraph 5.13.3); and
- to prepare, where appropriate, a travel plan to mitigate transport impacts (NPS EN1, Paragraph 5.13.4).

18.1.3. In reaching a decision the Secretary of State (SoS) should be satisfied that:

- an Applicant has sought to mitigate the effects of the Proposed Development on the surrounding transport infrastructure, including during the construction phase (NPS EN1, Paragraph 5.13.6);
- where mitigation is needed, possible demand management measures have been considered before the provision of new inland transport infrastructure to deal with remaining transport impacts (NPS EN1, Paragraph 5.13.8); and
- Applicants have identified appropriate mitigation measures to address adverse effects on coastal access, National Trails and other rights of way (NPS EN1, Paragraph 5.10.24).

18.1.4. The SoS may also attach requirements to a consent to control numbers of Heavy Goods Vehicle (HGV) movements, on the routing of such movements, to give consideration to the provision for HGV parking, and to ensure arrangements for abnormal disruption (NPS EN1, Paragraph 5.13.11).

Other Legislation and Policies

18.1.5. The legislation and guidance relevant to traffic and transport is set out in the Environmental Statement (ES) Chapter 24 [APP-110, Section 24.4.1] and for recreational routes in Chapter 19 [APP-105, Section 19.4]. Chapter 3 of this Recommendation Report and the Applicant's planning statement [APP-285, Section 5] sets out the national, regional and local planning policies that are considered relevant to the Proposed Development.

18.2. THE APPLICATION

Environmental Statement

18.2.1. The Applicant's assessment of traffic and transport is set out in the ES in Chapter 24 [APP-110] and for recreational routes in Chapter 19 [APP-105]. The ES chapters are supported by figures [APP-134] [APP-130] and appendices [APP-270] to [APP-273]. Other application documents that are relevant include the Transport Assessment (TA)

[APP-268] and its appendices [APP-269], the Outline Construction Traffic Management Plan (OCTMP) [APP-301] and the Outline Public Right of Way and Cycle Route Crossings [APP-213]. A number of plans are also of relevance:

- Works Plans (Onshore) [AS-005];
- Access to Works Plans [AS-006];
- Streets (to be temporarily stopped up) Plan [AS-007]; and
- Public Rights of Way (to be temporarily stopped up) Plan [AS-008].

Scope and Methodology

- 18.2.2. In the Traffic and Transport Study Area (TTSA), the Applicant identified 140 highway links for the assessment of the effects of severance, amenity, pedestrian delay, road safety, driver delay (capacity), driver delay (road closures) and driver delay (highway constraints). The Applicant's traffic and transport specific methodologies have been produced largely utilising the Guidelines for the Environmental Assessment of Road Traffic (GEART) and refined to determine significance.
- 18.2.3. The assessment adopts a base year of 2025 and uses a neutral period for traffic data collection. The baseline traffic flow data for all links within the TTSA has been informed by traffic counts. The TA [APP-268] contains full details of these counts and a summary of the baseline traffic flows for all links within the TTSA. The Applicant agreed the methodology with both National Highways (NH) and Norfolk County Council (NCC) at an Expert Topic Group (ETG) meeting on 13 July 2021. Operational traffic effects have been scoped out of the assessment due to the limited nature of traffic movements.
- 18.2.4. For recreational routes, the Applicant has assessed the effects of the Proposed Development on PRoWs (including bridleways, footpaths and byways), National Trails, and cycle paths.
- 18.2.5. The assessment of cumulative effects considers other plans, projects and activities that may impact cumulatively with the Proposed Development. It was agreed during the expert topic group meeting (13 July 2021) that several other Offshore Wind Farm (OWF) projects and highway improvement schemes should be considered [APP-110, Paragraph 148].
- 18.2.6. The ES [APP-110] alongside the TA [APP-268] and its Annexes [APP-269] identify that a concurrent Development Scenario is the worst-case.

Applicant's Assessment of Effects and Proposed Mitigation

- 18.2.7. The Applicant's proposed embedded mitigation that is common across the Proposed Development and relevant to traffic and transport is summarised in the ES [APP-110, Section 24.3.3]. Embedded mitigation specific to traffic and transport has been secured through Draft Development Consent Order (dDCO) [AS-009] Schedule 2, Part 1, Requirement (R) 15, R16 and R22 that relate to the OCTMP, highway accesses and construction working hours, which includes deliveries.
- 18.2.8. Additional mitigation specific to traffic and transport is also set out in the OCTMP [APP-301], in R15 of the dDCO [AS-009], which sets out the procedures which would be used to manage any impacts of HGV traffic and employee traffic during the construction period. These include:
- appointment of a Construction Traffic Management Plan Co-ordinator (CTMPCO);
 - to ensure compliance with the assessed worst-case scenario for HGV and Light Vehicle (LV) trips the establishment of a booking system that would enable a daily

profile of deliveries to be maintained and a resource forecast for the number of employees needed;

- reduction of peak daily HGV and LV trips on some links;
- limits on HGV movements along links 4, 49, 53, 54, 56 and 59;
- restrictions of HGVs through the villages of Attlebridge, Barford, Cawston, Horsford, Oulton, and Weston Longville and along Blind Lane and Cantley Road;
- procedures for abnormal loads;
- securing final access design and crossing concepts;
- access management measures;
- mitigation associated with the A47;
- road safety measures;
- measures to reduce cumulative effects with other projects;
- delivery driver induction procedures;
- control of material on the highway; and
- monitoring and enforcement procedures.

18.2.9. R24 of the dDCO [AS-009] requires a final PRow strategy to be provided for each crossing.

18.2.10. The Applicant's conclusion in the ES [APP-110, Table 26-63] states that the residual adverse effects of the Proposed Development for traffic and transport, in all Development Scenarios, would at worst, be negligible to minor adverse for: severance, amenity, pedestrian delay, road safety, driver delay (capacity) and driver delay (road closures). The ES considers residual effects to be minor for driver delay (highway constraints). Minor adverse residual effects are identified in the ES [APP-105, Table 19-23] for disruption to users of recreational routes during construction. The same conclusions as above were reached for cumulative effects.

18.3. LOCAL IMPACT REPORTS

Norfolk County Council

18.3.1. NCC notes [REP1-080] that detailed discussions and negotiations would remain on-going throughout the application process, particularly in respect of any temporary road closures; the OCTMP; and other travel related planning. It did however set out that it had assessed the impact of construction traffic on receptors along 140 roads (over 300 miles of road network) including consideration of pedestrian delay, road safety, driver delay and abnormal (large) deliveries and that mitigation measures would be needed. This would need to include reducing construction vehicle numbers on certain routes and the use of escort vehicles and/or provision of passing places along narrow roads. NCC is satisfied that the potential for cumulative impacts can be managed through the respective projects Construction Traffic Management Plans (CTMPs).

North Norfolk District Council

18.3.2. North Norfolk District Council (NNDC) [REP1-082] defer such matters to NCC as the highway authority.

18.3.3. There are no substantive comments relating to Traffic and Transport in any of the other submitted LIRs.

18.4. THE EXAMINATION

18.4.1. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on that relate to traffic and transport are:

- 1) whether the ES has suitably assessed the worst-case scenario;
- 2) the effects of construction vehicles on the Strategic Road Network (SRN);
- 3) the effects of construction vehicles on the Local Road Network (LRN), including the adequacy of the assessment and mitigation and effect on local villages;
- 4) cumulative effects on the LRN;
- 5) other relevant traffic and transport matters; and
- 6) effects on recreational routes, such as PRoW.

Worst-Case Scenario

- 18.4.2. General matters associated with the worst-case of the Development Scenarios that could be delivered by the Proposed Development are considered in Chapter 25 of this Recommendation Report. However, the ExA raised a particular concern with regard to assumptions made in the transport modelling, as set out in the TA [APP-268] and its annexes [APP-269] and this is considered here.
- 18.4.3. The ExA asked [EV-057] [EV-061] [PD-012, Q2.6.1.3] the Applicant to explain all the assumptions that had been used when modelling the concurrent Development Scenario in the TA [APP-268]. Further, the Applicant was asked why in the potential scenario of SEP and DEP being constructed separately, with different workforces, but concurrently at the same time, the trip generation figures are not significantly higher (or even double) than in the in-isolation Development Scenario, where only one project would be constructed.
- 18.4.4. The Applicant's response [EV-057] [EV-061] [REP3-110] [REP3-101, Q2.6.1.3] can be summarised as:
- 1) The dDCO would not allow for entirely separate construction in the concurrent Development Scenario. The Development Scenarios definitions are linked to and must be read alongside the works descriptions and works plans. These in effect, set out restrictions on the works which can actually take place in a Development Scenario where two projects can come forward separately. Further, the corridors are not separate. By the nature of what is included within the works descriptions there has to be a level of co-ordination to implement those projects in the Development Scenarios as drafted.
 - 2) The ExA was referred to the ES [APP-110, Section 24.3.2.2 and Table 24-2] for assumptions made in the modelling.
 - 3) Further assertion from the Applicant that the Development Scenario where Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) are constructed concurrently has been assessed robustly in the ES.
 - 4) Opportunities to optimise resources and schedule activities to limit the traffic demand have been identified. For example, SEP and DEP would share accesses, compounds and a haul road. It is for these reasons that a concurrent Development Scenario does not generate twice the traffic movements of an in-isolation Development Scenario.
- 18.4.5. The ExA did not find the Applicant's evidence and analysis unequivocally demonstrated the forecast trip generation figures assessed in the ES [APP-110] and as derived from Annex 9 and Annex 10 of the TA [APP-269] adequately consider a scenario where there is an overlap of construction of SEP and DEP being built in-isolation. The ExA therefore asked [PD-017, Q3.6.1.1] the Applicant, using the trip generation figures in the TA [APP-268] and its annexes [APP-269], to fully explain how such a scenario has been taken into account in the figures and assessed in the ES.

- 18.4.6. The Applicant's response [REP5-049, Q3.6.1.1] did not provide any further details and simply stated that the trip generation figures in Annex 9 and 10 of the TA [APP-269] had been provided by a contractor who has extensive experience of delivering similar projects and repeated the points already made above.
- 18.4.7. The ExA requested more detailed evidence [EV-103] [EV-105] [PD-021, Q4.6.1.1]. This included setting out several reasons why the ExA was concerned that the modelling had been based on Development Scenario 4 rather than Development Scenario 1d (which the Applicant had set out was the worst-case). This included the use of the word tandem in Annex 10 [APP-269] and that the only major difference in the anticipated trip generation figures in the TA [APP-268, Table 5] for in-isolation and the concurrent Development Scenario is associated with the onshore substation.
- 18.4.8. The Applicant's response [EV-103] [EV-105] [REP7-064] [REP7-065, Q4.6.1.1] made several points:
- 1) Highways Authorities (HAU) have not raised any concerns in relation to the assessment of traffic numbers assessed.
 - 2) The term 'tandem' in Annex 10 is interchangeable/ the same as a concurrent Development Scenario and Development Scenario 1d.
 - 3) The total number of vehicle movements is highest in the concurrent Development Scenario which is confirmed through a comparison of Annex 9 and Annex 10 of the TA [APP-269] (around 21% higher in the concurrent scenario).
 - 4) The deliveries associated with shared works comprise of approximately 45% of the total traffic demand in the concurrent construction scenario, which is a significant reduction in total traffic demand associated with the sharing of these elements by the two projects for Development Scenario 1d.
 - 5) To go from total traffic movements to peak traffic movements requires the application of a construction programme.
 - 6) The construction traffic figures in Table 5 of the TA [APP-268] reflect the peak number of workers to undertake an activity, but for Development Scenario 1d workers may stay on site for longer.
 - 7) Disaggregated numbers of vehicle movements for the concurrent and isolation Development Scenarios were provided [REP7-066, Appendix A.1]. The Applicant asserted that these figures demonstrate that the concurrent Development Scenario results in higher total vehicle movements than the isolation Development Scenario.
 - 8) It can be evidenced from Appendix A.1 [REP7-066] that the number of HGVs and LVs are higher for the concurrent Development Scenario (1d) than the in-isolation Development Scenario (1a or 1b) and are on average 33% higher for HGVs and 44% higher for LVs. This reflects the greater requirement for materials and resource for a concurrent construction than an in-isolation Development Scenario;
 - 9) A Co-operation Agreement would govern the necessary co-ordination and collaboration between the two projects and this is secured by R33 in the dDCO [REP7-005].
 - 10) The Applicant opined, in relation to a question about whether maximum traffic numbers should be secured as a requirement in the DCO, that this would not be necessary as the numbers in the OCTMP are maximum figures and cannot be exceeded.
- 18.4.9. The ExA welcomed the detailed evidence provided. However, upon review of Appendix A.1 [REP7-066] the ExA noted that for activities where there would be no shared works (such as crossings, ducting, jointing bays and cable pulling) it had been assumed that the works would take around twice as long. The ExA raised concern [PD-022, Section 6] that this did not appear representative of any of the concurrent Development Scenarios and would be more akin to the sequential Development Scenario (1c) where either SEP or DEP would be constructed one after the other

resulting in twice the construction time/ working days as one of the projects in-isolation. Further, the ExA identified that this assumption could significantly underestimate the likely peak daily LV and HGV vehicles movements for the concurrent Development Scenario and advised that it remained unconvinced that the worst-case (Development Scenario 1d) had been robustly assessed in the ES.

18.4.10.

The ExA did, however, acknowledge [PD-022, Section 6] that the OCTMP at Annex A, sets out maximum daily vehicle trips per link, which has been assessed in the ES. The ExA requested the Applicant provide wording for a new requirement that secures the maximum daily vehicle trips set out in Annex A of the OCTMP [REP5-027] within the dDCO. The Applicant responded [REP8-052] by setting out:

- 1) It can be evidenced from Annex 11 and 12 of the TA [APP-269] that all construction works have been scheduled within approximately three years for SEP and DEP concurrently (Development Scenario 1d) and also for SEP or DEP in-isolation (Development Scenario 1a and 1b). This is the same duration, not twice as long.
- 2) Works for individual activities per section may take longer for Development Scenario 1d than Development Scenario 1a or 1b, but would still be completed within the overall three-year construction period, given there are opportunities to spread individual activities. This approach to deriving traffic numbers reflects the imperative to optimise activities to ensure economic use of personnel vehicles, and materials (i.e. make best use of finite resource).
- 3) Whilst peak daily numbers per activity are broadly comparable between the two scenarios, it is evidenced from Table 24-19 and Table 24-20 of ES [APP-110] that the concurrent Development Scenario typically results in higher traffic movement per link (therefore higher potential impacts). This reflects that there would be more concurrent activities given that activities are occurring over a longer duration which leads to a greater propensity for overlap of activities in adjacent sections.
- 4) It can be seen from a comparison of Annex 11 and 12 [APP-269] that ducting (a non-shared works activity) in section CS01 takes approximately three weeks for the construction of SEP and DEP concurrently, whilst for the construction of SEP or DEP in-isolation the ducting activity takes one week. However, when considering the activity of ducting across all sections, it can be seen that all ducting activities are completed within three years for both Development Scenarios.
- 5) Sections 2.3.1 and 3.2.1 of the OCTMP [REP5- 027] outline measures to ensure compliance with the assessed worst-case scenario for HGV and LV trips in Annex A. The OCTMP [REP5-027] also includes a comprehensive strategy for monitoring, reporting and enforcing against the targets outlined in Annex A.
- 6) Both HAU's (NCC and NH) have agreed that the measures within the OCTMP [REP5-027] are adequate and appropriate to mitigate likely significant impacts.
- 7) The Applicant provided without prejudice wording to amend R15 to include a sub-paragraph (5):
“During construction of the authorised development, the maximum daily vehicle trips set out in Annex A of the outline construction traffic management plan must not be exceeded”.
- 8) Despite this, the Applicant stated that it had significant concerns over the appropriateness and enforceability of including such wording within a Requirement. There would be duplicate controls with the OCTMP [REP5-027], such that it would be unnecessary and unreasonable to impose such a Requirement, contrary to policy tests in NPS EN1.
- 9) The Applicant requested the opportunity to be consulted on the proposed drafting of any such Requirement.

ExA's Reasoning

- 18.4.11. The ExA considers that the Applicant's assumption that non-shared activities would take twice as many working days (derived directly from Annex 9 and 10 of the TA [APP-269] and illustrated in Appendix A.1 [REP7-066]) for the concurrent Development Scenario (1b) than in an in-isolation scenario (1a or 1b), could significantly underestimate the likely peak daily LV and HGV vehicles movements for the concurrent Development Scenario. The ExA notes the Applicant's assertions about Annex 11 and 12 and the example of ducting. However, the ExA is mindful that Annexes 11 and 12 of the TA [APP-269] are underpinned by the trip generation figures estimated in Annexes 9 and 10. As a result, the ExA remains unconvinced that there has not been an underestimation of trip generation figures in subsequent modelling that are reliant on Annex 9 and 10. The ExA can therefore not conclude that the worst-case (Development Scenario 1d) has been robustly assessed in the ES.
- 18.4.12. Notwithstanding this, ExA does accept that the maximum daily vehicle trips per link, as set out in the OCTMP [REP5-027, Annex A] have been robustly assessed in the ES. Given the concerns set out above, the ExA considers it is imperative that such maximums are not exceeded to ensure that impacts do not occur above those that have been assessed in the ES, including for other receiving environments such as air quality and noise and vibration that rely upon estimated vehicle movements.
- 18.4.13. Whilst it is acknowledged that the maximum daily vehicle trips per link are set out in the OCTMP [REP5-027, Annex A], the ExA considers it is imperative that the maximums are not exceeded for the reasons given above. Setting this out in a Requirement within the dDCO would provide more security for local communities that no exceedances would occur and would make it a criminal offence for the Applicant to do so. This would not be the case, as currently drafted in the OCTMP. The ExA does not therefore consider it would represent a duplication of control and the addition of the Applicant's without prejudice wording to R15 would meet the tests in NPS EN1, Paragraph 4.1.7. The ExA is also mindful that NPS EN1, Paragraph 5.13.11 sets out that the SoS may also attach requirements to a consent to control numbers of HGV movements.
- 18.4.14. On this basis, the ExA proposes the insertion of additional wording in sub-paragraph (5) into R15 of the recommended DCO (rDCO). The wording proposed by the ExA in the recommended is the same as that provided by the Applicant [REP8-052]:

(1) No phase of the onshore works may commence until for that phase a construction traffic management plan (which must be in accordance with the outline construction traffic management plan), as appropriate for the relevant phase, has for that phase been submitted to and approved by the relevant planning authority in consultation with Norfolk County Council or in respect of the strategic road network National Highways.

(2) Any plan submitted under sub-paragraph (1) may cover one or more phase of the onshore works.

(3) Each plan approved under sub-paragraph (1) must be implemented upon commencement of the relevant phase of the onshore works.

(4) If any of the accesses identified in the outline construction traffic management plan are required for pre-commencement archaeological investigations, a specific plan for such accesses which must accord with the relevant details set out in the outline construction traffic management plan must be submitted to and approved by the relevant planning authority, in consultation with Norfolk County Council or in respect of the strategic road network National Highways, prior to the construction and

use of such accesses. The accesses identified must be constructed and used in accordance with the details contained in the specific plan so approved.

(5) During construction of the authorised development, the maximum daily vehicle trips set out in Annex A of the outline construction traffic management plan must not be exceeded.

- 18.4.15. Despite the Applicant's reluctance to include this provision in the dDCO, the ExA sees no reason why further consultation would be necessary given that the Applicant has provided the wording. Although, it should be noted that the wording was provided by the Applicant [REP8-052] on the last day of the examination, so Interested Parties (IPs) have not had the opportunity to comment. The SoS may therefore wish to provide IPs with an opportunity to comment before imposing the additional wording.

Strategic Road Network

- 18.4.16. The onshore cable corridor would pass under the A47, which is the subject of several highway improvement schemes, including the A47 North Tuddenham project. The TA [APP-268] assesses the effect of the Proposed Development on 11 junctions of the existing A47. Potentially significant driver delay impacts were identified at two junctions. However, as part of the A47 North Tuddenham improvement scheme both of these junctions would be removed. The A47 North Tuddenham scheme was granted development consent in 2022, but its construction has been delayed by a judicial review. In the event that the Proposed Development is constructed before the completion of the A47 North Tuddenham Project any potential effects would be managed through the OCTMP [APP-301].
- 18.4.17. The ExA examined several matters associated with the effects on the A47 throughout the Examination with both the Applicant and NH. This included the adequacy of the TA [APP-268] modelling [PD-010, Q1.23.1.3] [PD-017, Q3.23.1.1] [PD-021, Q4.23.1.1] the timing of the A47 improvement works, along with any conflicts or cumulative effects this might cause [EV-020] [EV-024] [PD-010, Q1.23.3.3] [EV-037] [EV-042] and whether suitable mitigation is available [EV-020] [EV-024] [PD-010, Q1.23.6.1] [EV-037] [EV-042] [PD-012, Q2.23.6.1] [PD-017, Q3.23.6.1] [PD-021, Q4.23.6.3].
- 18.4.18. The Applicant's position can be summarised as:
- 1) The ES [APP-110] and TA [APP-268] was based on a worst-case scenario that the A47 North Tuddenham improvement scheme is not delivered, but that the identified adverse effects would no longer be present should the improvement scheme come forward [REP1-032].
 - 2) The OCTMP [REP5-027, Section 4.11.2 and Paragraphs 100 and 101] details an approach (agreed with the NH and NCC) for managing the uncertainties associated with major scheme progression and the potential for cumulative effects [REP1-036, Q1.23.3.3].
 - 3) Options such as programming, optimisation of materials/fleet, mode share and local supply chain exist to manage potential conflicts in construction programmes [REP1-036, Q1.23.6.1].
 - 4) A review of the DCO application documents for the Highway Schemes (by the Applicant) identified that the deliveries would be expected to travel via the SRN and would be within day to day fluctuations in traffic. Anticipated cumulative impacts upon capacity and road safety would therefore not be significant. In developing the respective CTMPs, the Applicant and NH would therefore focus upon co-ordinating road works [REP1-036, Q1.23.6.3].

- 5) NH has agreed during the pre-application and post submission engagement that potential cumulative construction impacts can be addressed within the CTMP [REP3-109].
- 6) The CTMP would be expected to evolve through the construction programme to adapt and ensure it remains up to date. The Applicant confirmed there would be a CTMPCO who would be required to engage with the highways authorities to facilitate understanding of their programme of works [REP3-109].
- 7) A Co-operation Agreement would be agreed outside of the DCO process to address: access arrangements, programming of works, lines of communication, engineering works where relevant, ecological mitigation and road closures [REP3-101, Q2.23.6.1] [REP5-049, Q3.23.6.1].

- 18.4.19. Whilst NH initially set out [REP1-131, Q1.23.6.1] that it was not possible to confirm whether the mitigation measures set out within the OCTMP, as a fallback, would be sufficient in addressing significant impacts on the SRN, following further discussions and by the end of the Examination, NH was content [REP8-033] that the final iteration of the OCTMP [REP5-027] provided suitable provisions to mitigate potential harm to the SRN. The parties also agreed [EV-037] [EV-042] that the potential for cumulative impacts between the construction of the Proposed Development and the A47 North Tuddenham improvement scheme would be managed through the OCTMP.
- 18.4.20. NH requested [REP5-085] amendments to the OCTMP, to set up a monitoring group, which will be chaired by the Applicant. This would review the outputs of the monitoring report and discuss any remedial measures. The Applicant agreed to the request and provided a revised OCTMP [REP5-027] that included this addition.
- 18.4.21. NH did raise a relatively late concern with regard to the driver delay, capacity and assessment methodology [REP3-080]. The Applicant provided a further technical note [REP7-082] in response. NH subsequently confirmed [REP7-104, Q4.23.1.1] that the additional information had resolved their concern.
- 18.4.22. At the end of the Examination, there were no technical SRN traffic and transport matters outstanding between the Applicant and NH [REP8-033], or any other party.
- 18.4.23. However, Protective Provisions (PP) for NH and the matter of a Co-operation Agreement between the parties were unresolved. The matter is reported in Chapter 28 of this Recommendation Report.

ExA's Reasoning

- 18.4.24. The ExA has examined the potential effects of the Proposed Development on the SRN with the Applicant and NH throughout the Examination. At the close of the Examination the outcome of the A47 North Tuddenham improvement scheme judicial review had not been provided to the ExA. In any event, the ExA is content that should the A47 North Tuddenham improvement scheme not be delivered, the latest iteration of the OCTMP [REP5-027] includes suitable provision to mitigate the potential adverse effects on the SRN. The final version of this is secured by R15 of the dDCO [REP8-005]. The ExA take confidence in this view from NH who has confirmed that it is content the identified potential adverse effects on the two A47 junctions identified in the TA [APP-268] are capable of mitigation.
- 18.4.25. In a similar manner, the ExA is satisfied that should there be a cross over in construction works of the Proposed Development and the A47 North Tuddenham improvement scheme that any cumulative effects on the SRN can be suitably managed through co-operation, programming, optimisation of materials/fleet, mode share and local supply chain matters. These measures are secured in the final iteration of the OCTMP [REP5-027].

18.4.26. For these reasons, the ExA is content that there would not be any significant adverse effects on the SRN.

Local Road Network - Adequacy of the Assessment and Mitigation

18.4.27. The ExA examined with the Applicant and NCC the adequacy of the Applicant's assessment [APP-110] of the effects of construction traffic on the LRN and the appropriateness and deliverability of the mitigation proposed. This included:

- the appropriateness of looking at links on the LRN and whether this was suitably assessed adverse effects at junctions [EV-005];
- how the potential for 'summer peaks' has been taken into account in the assessment [PD-010, Q1.23.1.1];
- the rationale behind the number of accesses required during construction and how these have been minimised [PD-010, Q1.23.5.2];
- whether it is appropriate to agree detailed access arrangements and necessary highway improvements or arrangements (widening or vehicle escorts) post-consent [EV-029];
- whether proposed mitigation on some links can be realistically delivered within existing highway boundaries [PD-010, Q1.23.5.5 and Q1.23.6.4]; and
- whether the maximum limits of vehicle numbers and restricted routes can be suitably monitored and enforced and the effects of such limits on the delivery of the Proposed Development [PD-010, Q1.23.6.2 and Q1.23.6.3] [EV-029] [PD-21, Q4.23.6.1].

18.4.28. The responses from the Applicant to the matters examined above can be summarised as:

- 1) Junctions were assessed as part of the assessment [APP-110]. A different approach was used for the LRN than the SRN (recognising the extent of the study area and need to present a proportionate assessment) which looked at the hourly change in traffic and whether this was material. This included junctions within the assessed links [REP1-032].
- 2) The ES [APP-110, Table 24-10] identified 59 links which NCC considered to be 'particularly sensitive to driver delay effects'. The sensitive periods were identified and included the morning, peak evening peak and/or summer peak. All 59 links, were subject to assessment for driver delay (capacity) impacts. The assessment [APP-110, Section 24.6.1.7.1.2] outlined that with the application of mitigation residual impacts would be no greater than minor adverse. The Applicant has hosted three meetings with NCC to discuss traffic and transport matters (including impacts upon summer peaks) [REP1-036, Q1.23.1.1].
- 3) The Applicant stated that its approach to selecting access locations was (where possible) to locate access points where the impacts of construction traffic would be minimised. The number of access points was reduced following stakeholder and community feedback and has been minimised by the inclusion of a temporary haul road [REP1-036, Q1.23.5.2].
- 4) During engagement with NCC, access locations that had the potential to be spatially constrained were identified and the Applicant agreed outline access designs (with details of visibility splays) would be required for the submission. For the remaining access locations, a suite of access and crossing concepts were developed which are specific to road classification but not site location. These concepts would form the basis for micro-siting and detailed design post determination. This approach was also agreed by NCC and accepted by the SoS for other OWFs [REP1-036, Q1.23.5.5].
- 5) Where the visibility splay requirements could not be fully achieved within the order limits or the public highway or may have significant adverse environmental impacts (e.g. extensive tree/hedgerow removal) a reduction in the visibility requirement

(through temporary speed limit reductions) would be discussed and agreed with NCC [REP1-036, Q1.23.5.5].

- 6) It is clarified that where there is not space to provide passing places or passing places cannot be provided within the public highway, mobile traffic management measures would be utilised [REP1-036, Q1.23.6.4].
- 7) The Applicant highlighted that the OCTMP [APP-301, Section 2.3] set out a range of measures to ensure that HGV drivers follow the prescribed routes. Section 5 of the OCTMP sets out how HGV routing would be monitored and defines enforcement measures for dealing with any breaches of the agreed routes [REP1-036, Q1.23.6.2].
- 8) A range of measures could be adopted to reduce the intensity of peak deliveries, such as programming, optimisation of materials/fleet, mode share and maximising local supply chain [REP1-036, Q1.23.6.3].

18.4.29. NCC was content that it was appropriate to agree detailed access arrangements and necessary highway improvements or arrangements (widening or vehicle escorts) post-consent [EV-037] [EV-042]. Further, NCC set out it does not have the resource to monitor every link in the TTSA and as with other projects of this nature, it is for the promotor to put in place suitable monitoring/reporting measures that can be discussed with NCC at regular progress meetings [REP7-084, Q4.23.6]. At the end of the Examination, NCC confirmed [REP7-043] it was content with all matters associated with the LRN.

ExA's Reasoning

18.4.30. As a result of the clarifications and additional information provided by the Applicant set out above, the ExA is satisfied that the assessment of effects from construction traffic has been robust in its approach and methodology. Further, the ExA is content that the Applicant has sought to reduce effects from the various access points by minimising their number as far as practicable, such as utilising an internal haul road wherever possible.

18.4.31. The ExA considers that the agreement of the majority of detailed access arrangements and necessary highway improvements or arrangements (widening or vehicle escorts) post-consent with NCC is an acceptable and proportionate approach. The ExA is also of the view that there is sufficient evidence to demonstrate that suitable access arrangements and necessary highway improvements or arrangement can be delivered, where these have been identified as being necessary.

18.4.32. Having explored the matter throughout the Examination and acknowledging the provisions set out in the final iteration of the OCTMP [REP5-027 Sections 2.3 and 5], the ExA is content that the identified vehicle routes and maximum vehicle limits can be suitably implemented, monitored and enforced.

Local Road Network – Villages

Weybourne

18.4.33. Weybourne Parish Council (PC) [RR-122] has set out that: the roads in Weybourne are unsuitable for HGVs and exceptional loads; the A149 becomes extremely busy during the tourist season, congestion builds up very rapidly; there are no pavements along the A149 through most of the village, but the road is regularly used by pedestrians; and trenchless technology must be used to cross all highways. Further, the movement of HGVs along minor roads would cause disruption, particularly in the holiday season, upon which much of the employment in the area is dependent [REP1-103].

- 18.4.34. The ExA explored matters associated with traffic and transport in Weybourne through written questions [PD-010, Q1.23.1.5]. The ExA visited Weybourne during both an Unaccompanied Site Inspection (USI) [EV-094] and an Accompanied Site Inspection (ASI) [EV-004].
- 18.4.35. The Applicant in response [REP1-033] has set out that the ES [APP-110, Section 24.5] considers the character of the existing environment in relation to traffic and transport to enable potential effects to be identified. Further, the A149 has been assessed as high sensitivity which is fundamental when assessing potential effects and the mitigation strategy proposed. The Applicant also noted that it is committed to crossing all A and B class roads by trenchless technology.
- 18.4.36. A commitment to avoid closing any of the roads leading in and out of Weybourne has also been made by the Applicant and enhanced measures have been set out within the OCTMP, such as a community liaison officer to help effectively manage deliveries during local planned events [REP2-017].
- 18.4.37. At the end of the Examination Weybourne PC [REP8-084] explained that Orsted Hornsea Project Three Offshore Wind Farm (Hornsea 3) is now in the construction phase and set out that many HGVs do not abide by the speed limit or designated routes causing issues. The Applicant was not able to comment on Weybourne PC's concerns due to it being submitted on the last deadline of the Examination, which also coincided with the last day of the Examination.

Corpusty and Saxthorpe

- 18.4.38. Corpusty and Saxthorpe PC is concerned [REP1-073] by the impact of additional traffic generated by the Proposed Development alongside other developments, including: housing planned at Corpusty and Saxthorpe; new homes recently constructed in Holt; a broiler farm at Edgefield; and the proposed layer farm at Lime Kiln Farm, Oulton. Corpusty and Saxthorpe PC also identified 'choke points' along: the B1149 Holt Road, Oulton (Link 54); the B1354 Bickling Road, Saxthorpe (Link 57) and at Reepham Road, Brandiston (Link 137).
- 18.4.39. The ExA examined matters associated with traffic and transport in Corpusty and Saxthorpe through written questions [PD-012, Q2.23.3.1], which asked the Applicant to respond to the matters raised by Corpusty and Saxthorpe PC.
- 18.4.40. The Applicant set out in response [REP3-101, Q2.23.3.1] that the ES [APP-110] includes an assessment of the impact of traffic upon the links where the 'choke' points are located and identifies that with the application of mitigation measures residual impacts would not be significant. Furthermore, the Applicant notes that it has undertaken an extensive programme of stakeholder engagement with NCC who have a statutory duty under the Traffic Management Act 2004 to ensure the expeditious movement of traffic on their road network (which includes the three identified links) and the assessment conclusions have been agreed.

Oulton

- 18.4.41. Oulton PC expressed deeply held views with regard to the effect of construction traffic on its community from the Proposed Development. Oulton PC contributed throughout the Examination, including the hearings and attended ASI2 [EV-028]. This was despite suffering from understandable Examination fatigue given the other OWF developments in the area, such as Hornsea 3, Norfolk Vanguard Offshore Wind Farm (Norfolk Vanguard) and Norfolk Boreas Offshore Wind Farm (Norfolk Boreas). Issues raised by Oulton PC include:

- construction traffic for the Proposed Development and other windfarms in the area would share, as their access route, the southern end of Oulton Street for many years, representing severe cumulative adverse impacts for Oulton [RR-073] [EV-009] [EV-010] [REP1-087] [REP3-126];
- wished to see construction traffic being prevented from going through the residential part of Oulton Street [REP1-085];
- the increase in traffic at the southern end of The Street, the main route out of Oulton Street onto the B1149, would result in delays [REP1-085] [REP3-126];
- there would be an increase in displaced local traffic avoiding the southern end of The Street and using local alternative routes, often narrow roads (rat runs), unable to cope with two-way traffic [REP1-085];
- agricultural traffic, could use Oulton Street as an alternative route, adding to local impacts [REP1-085];
- the B1149 would be impacted by the Proposed Development as there would be three access points along this road, two of which would be new access points and here are also hidden dips in the road causing safety issues [REP1-085] [REP1-088];
- accesses ACC25 and ACC25b were of most concern [REP1-085] [REP3-126] [REP5-077];
- no information on how the resident of Bluestone Cottage would be able to exit from their property or consideration given to the loss of access during works to construct the cable route [REP1-085];
- some of the roads in Oulton would be temporary 'stopped up streets' causing more disruption [REP1-085];
- in the OCTMP [APP-301] cumulative impacts have been looked at for Oulton with the Proposed Development and Hornsea 3, but not for Norfolk Vanguard and Norfolk Boreas OWFs [REP1-088];
- Link 57 has been classified as having no cumulative impacts [REP1-088] [REP3-126]; and
- the main contractors for pre-construction works for both Orsted's (Hornsea 3) and Vattenfall's (Norfolk Vanguard and Norfolk Boreas) OWFs have not initially understood the agreed traffic routes [REP7-089].

18.4.42. The ExA examined the potential effects of construction traffic on the community of Oulton at ISH3 [EV-037] [EV-042] and through written questions [PD-010, Q1.23.1.8 and Q1.23.6.2] [PD-012, Q2.23.2.3, Q2.23.5.5 and Q2.23.6.2] [PD-017, Q3.23.5.2 and Q3.23.6.3] [PD-021, Q4.23.5.1]. These included questions for the Applicant, Oulton PC and NCC about the issues raised by Oulton PC above. The ExA also visited Oulton during both an USI [EV-001] and an ASI [EV-028].

18.4.43. The Applicant's reply to these matters can be summarised as:

- 1) To reduce potential impacts it has committed to not routing HGV traffic through Oulton [REP1-033] [REP2-040].
- 2) There would be caps on HGV traffic on The Street and B1149 to ensure that cumulative traffic flows do not exceed those already agreed for Hornsea 3, Norfolk Vanguard and Norfolk Boreas in their made DCOs [REP1-033] [REP2-040] [REP2-043].
- 3) Spink's Lane, Spa Lane and the B1354 would be crossed using trenchless technology to prevent road closures. Where other roads are closed during this time, suitable diversions would be agreed with NCC [REP1-033] [REP2-040].
- 4) The OCTMP [APP-301, Section 2.3] sets out a range of measures to ensure that HGV drivers follow the prescribed routes and Section 5 sets out how HGV routing would be monitored and defines enforcement measures for dealing with any breaches of the agreed routes [REP1-036] [REP2-040].
- 5) The ES [APP-110, Table 24-20] presents details of the peak increase in daily traffic that would be generated via The Street (Link 131). It can be identified that

at the peak, the Proposed Development could result in a peak change in traffic of up to 5%. A change in daily traffic of up to 5% would be less than typically day to day fluctuations [REP2-040].

- 6) Accesses ACC25 and ACC25b have been discussed with NCC and measures agreed. Manual controlled traffic lights would allow the timing of the signals to be adjusted on site to ensure traffic does not block back from ACC25b to ACC25 [REP5-049, Q3.23.5.2] [REP6-021].
- 7) The Crossing Schedule [AS-022] identifies that the track to Bluestone Cottage would be crossed using trenchless technology and therefore access would be maintained at all times [REP3-101].
- 8) It has submitted a revision to the OCTMP [REP1-021] which amends the wording to include the Norfolk Vanguard and Norfolk Boreas in cumulative considerations [REP2-043].
- 9) The ES [APP-110] identifies that link 57 is forecast to experience a change in peak daily traffic flows below screening thresholds and is therefore assessed to experience negligible impacts. Consequently, as outlined within the ES [APP-110, Section 24.7.1] the link is not taken forward for further assessment of cumulative impacts as only potential impacts assessed as greater than negligible are included within the cumulative effects assessment [REP2-043] [REP3-109].
- 10) NCC had identified routes it wishes to see LV restrictions. This includes Oulton and additional measures to manage the potential for LV movements through Oulton, and this has been included within a revision to the OCTMP [REP3-063, Section 3.2.3].

18.4.44. At the close of the Examination, NCC confirmed that [REP7-043] it was content that the proposed measures at accesses ACC25 and ACC25b were appropriate and it had no outstanding concerns with regard to the management of traffic on the LRN.

Cawston

18.4.45. Cawston PC is concerned [RR-019] that there would be additional traffic and congestion on the local road network, including minor roads. Cawston PC consider [REP1-072] [REP3-122] that arguments that there would be no HGV through the centre of Cawston ignores the need for residents to travel outside the village, for work, schools, medical appointments, etc, and for businesses to deal with deliveries and get their staff to work. It was also noted that other developers have amended their working hours to recognise this.

18.4.46. Cawston PC are of the view that the B1145 is inadequate as are other minor unclassified roads in the area for HGVs. These are often used for recreation by cyclists, walkers and horse riders and there is a serious road safety issue to be considered [REP1-072] [REP3-122].

18.4.47. Cawston PC has also raised the experience it has had with other windfarm projects and their impact, including: wrong parking signage which resulted in residents being given fines; not abiding by agreed traffic routes and poor communication [REP8-080].

18.4.48. The ExA explored matters associated with traffic and transport in Cawston through written questions [PD-010, Q1.23.1.9 and Q1.23.6.2] [PD-012, Q2.23.6.2]. The ExA visited Cawston during both an USI [EV-094] and an ASI [EV-004].

18.4.49. The Applicant responded [REP1-033] that it has engaged with Cawston PC about vehicles passing through the village centre and has sought to avoid this through its site selection process and access strategy that would allow all HGV traffic to arrive and depart via the B1145, avoiding minor roads and this is secured by the OCTMP [APP-301]. It is also noted by the Applicant that cumulative traffic 'caps' with the other

developments in the area that were agreed with NCC are also secured in the OCTMP.

- 18.4.50. The Applicant identified [REP2-040] that NCC has classified the B1145, as a Main Distributor, which indicates a route linking Primary Distributors (i.e. linking significant settlements to A roads serving the County) and are not subject to any restrictions on HGVs. In addition, it was noted that the B1145's functional hierarchy and the ability to accommodate HGV traffic had been accepted by the Examining Authorities and Secretary of State through the determination of the Norfolk Vanguard, Norfolk Boreas and Hornsea 3 DCOs.
- 18.4.51. In terms of working hours, the Applicant considers [REP1-064] that any restrictions on traffic movements outside of the standard working hours should be assessment led and informed by the impact significance. The ES [APP-110] provides an assessment of the impact of construction traffic on all links within the TTSA and details mitigation measures as required. These include a reduction in peak daily and hourly flows along some links. The Applicant also identifies [REP1-064] that the Hornsea 3 CTMP outlines the restriction (referred to by Cawston PC) on HGV movements applies to movements through the village of Cawston and that it has committed to not routing any HGVs through Cawston and that this commitment is contained within the OCTMP [APP-301].
- 18.4.52. The Applicant was not able to comment on Cawston PC concerns about the effect of the construction of other windfarm projects in the area due to it being submitted on the last deadline of the Examination, which coincided with the last day of the Examination.

ExA's Reasoning

- 18.4.53. The ExA acknowledges the significant concerns that many communities and local residents have with regard to the potential effects of construction traffic from the Proposed Development and has considered the matter with great care. The ExA is very mindful of the disruption that the Proposed Development, along with other development in the area could have over a considerable period of time. Bearing this in mind and drawing on observations made during the site inspections, the ExA has reached the following conclusions.
- 18.4.54. The ExA is content that the sensitivity of the A149 in Weybourne to increased traffic has been appropriately taken into account and assessed [APP-110] by the Applicant. The final iteration of the OCTMP [REP5-027] contains measures to minimise the effect of construction traffic on Weybourne. HGV flows along the A149 through Weybourne (Links 9 and 11) would be reduced to ensure peak daily HGV demand does not exceed the forecast average daily HGV demand, as set out in Annex A of the OCTMP [REP5-027]. Further, A149 The Street, Holt Road and Station Road are proposed to be crossed using trenchless technology to avoid road closures and diversions in the Weybourne area.
- 18.4.55. The ExA is satisfied that the Applicant's assessment [APP-110] appropriately factors in future recent and future planned housing in the Corpusty and Saxthorpe area. As set out in the TA [APP-268, Section 24.1.2.3], sub-regional growth in housing and employment is taken into account by a proportionate approach to forecasting future traffic growth for the 2025 reference year. This was agreed with NCC and NH.
- 18.4.56. The more specific concerns of Corpusty and Saxthorpe PC relate to the B1149 Holt Road, Oulton (Link 54); the B1354 Bickling Road, Saxthorpe (Link 57) and at Reepham Road, Brandiston (Link 137). Link 54 would have a cap on HGV traffic to ensure that cumulative HGV traffic flows do not exceed those already agreed by NCC

for Hornsea 3, Norfolk Vanguard and Norfolk Boreas. The Applicant's assessment [APP-110] finds that for Link 57 there would be negligible effects from construction traffic and no worse than minor adverse effects on Link 137 following mitigation. Mitigation could include measures to allow two HGVs to pass on another or an escort vehicle could be used to guide HGVs along the link and hold back conflicting traffic. Given no concerns were raised by NCC, the ExA see no reason to disagree with the Applicant's assessment on these links.

- 18.4.57. Turning to Oulton, the final iteration of the OCTMP [REP5-027] contains several measures to minimise and manage potential effects from construction traffic on the community. This includes a commitment to not route HGVs through the village. In addition, during the Examination the Applicant amended the OCTMP [REP3-062] to restrict LVs from also routing through the village. The Applicant discussed the concerns of Oulton PC in relation to proposed accesses ACC25 and ACC25b with NCC and agreed a traffic management scheme during the Examination. Having visited Oulton during both a USI [EV-001] and an ASI [EV-028], the ExA is content that the measures proposed at accesses ACC25 and ACC25b are appropriate and the number of accesses along the B1149 would not lead to highway safety concerns, a view shared by NCC. Further, given the information provided by the Applicant, the ExA is content that suitable access can be maintained to Bluestone Cottage.
- 18.4.58. The proposed caps on HGV traffic on the B1149 and The Street (Links 49, 51, 54, 56 and 131) would ensure that cumulative HGV traffic flows do not exceed those already agreed by NCC for Hornsea 3, Norfolk Vanguard and Norfolk Boreas. This is likely to result in local traffic not being displaced onto other local roads any more than is already likely to occur as a result of the other projects. Furthermore, the ExA is mindful that temporary road closures around Oulton have been minimised by the Applicant through the use of trenchless crossings.
- 18.4.59. The ExA observed on the site inspections [EV-094] [EV-004] that in places the B1145 can be tight for HGVs to pass one another. However, the ExA is mindful that it is classed as a main distributor road by NCC and the ability to accommodate HGV traffic has been accepted by the Examining Authorities and SoSs through the determination of the Hornsea 3, Norfolk Vanguard and Norfolk Boreas OWF projects. The ExA is therefore persuaded that the use of the B1145 for HGVs during the construction of the Proposed Development is appropriate.
- 18.4.60. The OCTMP [REP5-027] restricts HGVs from routing through the centre of Cawston. Furthermore, the proposed 'caps' on HGV traffic on the B1145 from Old Friendship Lane to the B1149 (Link 53), as well as those on the B1149 (Links 49, 51, 54 and 56) would ensure that cumulative HGV traffic flows do not exceed those already agreed by NCC for the Hornsea 3, Norfolk Vanguard and Norfolk Boreas projects. To the southeast of Cawston, Buxton Road / Easton Way (Link 132) would have reduced HGV traffic flows so that peak daily HGV demand does not exceed the forecast average daily HGV demand. In addition, the B1145, B1149, Norwich Road and Reepham Road are proposed to be crossed using trenchless technology to avoid road closures and diversions in the Cawston area.
- 18.4.61. The ExA notes the concerns of Oulton PC, Weybourne PC and Cawston PC about the construction traffic of other projects not following agreed routes. The ExA also recognises that errors by drivers can occur and as a result it heavily scrutinised the OCTMP [REP5-027]. The ExA is of the view that the OCTMP [REP5-027, Section 2.3] includes sufficient measures to ensure that HGV drivers follow the prescribed routes and Section 5 identifies measures for HGV routing monitoring and sets out enforcement measures for dealing with any breaches of the agreed routes, including the appointment of a CTMPCO. During the Examination, the OCTMP [REP5-027]

was also revised to include a monitoring group that would be chaired by the CTMPCO and would discuss the outcomes of the monitoring report with NCC and NH and would discuss any remedial action that may be required. Both NCC and NH were both supportive of this approach.

- 18.4.62. The ExA is content that the Applicant has included adequate measures to minimise the effects of construction traffic on local communities, as set out in the final iteration of the OCTMP [REP5-027] and secured by R15 of the rDCO.

Cumulative Effects on the Local Road Network

- 18.4.63. Numerous parties [too many to list] raised concerns about the cumulative traffic and transport effects of the Proposed Development with other projects in the area. The ExA explored several areas associated with the cumulative traffic and transport effects of the Proposed Development.

Proposed Caps on Vehicle Movements

- 18.4.64. In order to mitigate cumulative effects, the ES [APP-110] sets out that caps which were agreed between NCC and other OWF DCO applicants as a mechanism for managing cumulative impacts along a number of roads affected by Hornsea 3, Norfolk Vanguard and Norfolk Boreas would not be exceeded. The ExA asked questions about the practicalities of such an arrangement [EV-020] [EV-024] [PD-010, Section Q1.23.3]. This included asking for more information in relation to the proposed caps on some road links and whether the other developers would likely agree to such an arrangement.
- 18.4.65. The Applicant responded [EV-020] [EV-024] [REP1-032] [REP1-036, Q1.23.3.6] by setting out that:
- in the event there is overlap of the construction periods with these other projects it would work within those caps and the management of that process was detailed in the OCTMP [APP-301];
 - the role of the CTMPCO as shown in the OCTMP [APP-301] would be to support the Applicant with engagement with the other developers, including understanding their programmes of works;
 - the CTMPCO would develop and agree mitigation strategies in the event of major project cumulative overlap, ensure compliance with the 'caps' and monitor and enforce them;
 - it would not ask the other developers to reduce their traffic flows but would reschedule their own works; and
 - mitigation does not rely on any third parties.
- 18.4.66. The ExA asked further questions [EV-037] [EV-042] about: how this arrangement could affect the progress of the construction phase of the Proposed Development; whether there is potential for other links to be used instead to bypass the links with caps; and if so, whether this could result in any unacceptable impacts on the other links.
- 18.4.67. The Applicant set out [EV-037] [EV-042] [REP3-109] that in the event the other developments are in construction at the same time and there is the potential for caps to be exceeded, it may (for example) delay certain works in the affected area and work in different areas. The Applicant identified it would not use links which have not been assessed and the use of other routes would be breach of the CTMP and that there are other measures which can be used to reduce traffic levels.

- 18.4.68. NCC confirmed at the close of the Examination [REP7-043] it was content that arrangements set out in the OCTMP [REP5-027] were sufficient to manage cumulative effects.

Norfolk Vanguard OWF and the A1067

- 18.4.69. Vattenfall set out [RR-119] that the A1067 (the main route serving the main construction compound location for the Proposed Development) is also a road link for construction traffic for Norfolk Vanguard and that the reported construction traffic numbers should be factored into the assessment of cumulative traffic impacts. The ExA sought clarification [PD-010, Q1.23.3.7] that all links along the A1067 that could be affected cumulatively with the Norfolk Vanguard OWF had been suitably assessed.

- 18.4.70. In response to Vattenfall's concern, the Applicant noted [REP1-036, Q1.23.3.7] that the A1067 comprises of Links 76, 77, 79 and 80 and whilst all four links would be used by the Proposed Development, Norfolk Vanguard OWF and Norfolk Boreas OWF, Links 76, 77 and 79 experience changes in traffic flows below the GEART screening thresholds. These links were assessed to result in negligible environmental effects in the primary assessment for the Proposed Development and were therefore not assessed further within the cumulative assessment (i.e. those assessed as negligible are not taken forward as there is no potential for them to contribute to a cumulative impact).

ExA's Reasoning

- 18.4.71. The ExA considers that the cumulative effects from the Proposed Development and other projects in the area has been appropriately modelled and assessed in the ES and no evidence has been provided to bring into question the Applicant's assessment. Further, the ExA is content that the measures in the final iteration of the OCTMP [REP5-027], the final version of which is secured by R15 of the rDCO are sufficient to manage and minimise such impacts.

Other Relevant Matters

- 18.4.72. Royal Mail [REP1-160] was of the view that the OCTMP [APP-301] should include additional provisions, including a month's notification of highway works that might affect it being able to deliver mail. The ExA asked [PD-012, Q2.23.6.4] the Applicant to reply to these concerns.
- 18.4.73. The Applicant noted [REP3-101, Q2.23.6.4] that the Outline Code of Construction Practice (OCoCP) [APP-302, Section 2.4] outlines that a Stakeholder Communications Plan would be developed and would ensure effective and open communication with local residents, businesses, the local community and the emergency services that may be affected by the construction works. Further, as a potentially impacted local business, Royal Mail would be included within the Stakeholder Communications Plan and made aware of type and timing of works. The Applicant also set out that both NH and NCC, as the relevant highways authorities have confirmed to it that they give Royal Mail advance notifications of any road closures. No further evidence was received from Royal Mail in response to the Applicant.

ExA's Reasoning

- 18.4.74. The ExA notes that the provisions set out in the final iteration of the OCoCP [REP8-023, Section 2.4], secured by R19 of the rDCO ensures a Stakeholder Communications Plan would be produced. The ExA considers that this alongside the

notifications from NH and NCC, are sufficient to ensure that Royal Mail's future ability to provide an efficient mail sorting and delivering service to the public in accordance with its statutory obligations would be suitably protected.

Recreational Routes

- 18.4.75. The onshore elements of the Proposed Development, namely the cable corridor and landfall, interact with 38 recreational routes. This includes numerous PRowS, the Norfolk Coast Path, and Norfolk Coast Cycleway.
- 18.4.76. Norfolk Local Access Forum [RR-066] set out that it broadly supports the Outline Public Rights of Way Strategy [APP-309] but recognised that there would be inevitable impact on communities along the routes and believes there should be funding for long-term benefits once works are completed. It also requested that any disruption is minimised, notification occurs well before any works take place, and extra consideration is given to intensively used routes such as Marriott's Way to avoid complete closure. Further, a specific concern was raised with regard to the Stoke Holy Cross Bridleway 3, in terms of the gates proposed by the Applicant.
- 18.4.77. The Applicant responded [REP1-034] by setting out that the OCoCP [REP8-023] includes a number of mitigation measures, including measures to be followed for all temporary alternative routes for both pre and post construction works, surveys and advertising. The Applicant explained that the OCoCP [REP8-023] sets out that all footpaths would be reinstated to their original condition, or such condition approved by the relevant Local Authority (LA). Further, the Applicant noted that the landfall works would not require any closures to the coastal path and embedded mitigation includes avoiding recreational routes or if this is not possible, for crossings to be trenchless where reasonably practicable, which includes Marriott's Way as set out in the Public Rights of Way and Cycle Routes Crossing Schedule [APP-213].
- 18.4.78. With regard to the specific concern about Stoke Holy Cross Bridleway 3, the Applicant identified [REP1-034] that gates would be installed during the operational phase where Stoke Holy Cross Bridleway 3 crosses the permanent onshore substation access road. The Applicant set out that the road would be used for routine and ad hoc maintenance activities only and no impacts are predicted during operation. Further, the gates would prevent access to the onshore substation access road.
- 18.4.79. The ES [APP-105, Section 19.7.1.9.4] identifies that without any mitigation there would be major adverse effects on such recreational routes. A number of mitigation measures are set out in the OCoCP [REP8-023] that also reflect the Outline Public Right of Way and Cycle Route Crossings Strategy [APP-213]. These include: appropriately fenced (unmanned) crossing points; manned crossing points; and temporary alternative routes (assumed be required for approximately 1 week). A final strategy for each crossing is secured by R24 of the dDCO [REP8-005].
- 18.4.80. No LAs raised any concerns with regard to the effect of the Proposed Development on recreational routes or in relation to the appropriateness of the mitigation proposed.

ExA's Reasoning

- 18.4.81. The ExA agrees with the findings of the ES [APP-105, Section 19.7.1.9.6] and is mindful of the lack of any concern from LAs. The ExA is satisfied that following the mitigation set out above, there would not be any significant residual adverse effects on recreational assets, including Marriott's Way and Stoke Holy Cross Bridleway 3. Given any affected recreational routes would be reinstated to their original condition

or a condition agreed by the relevant LA, the ExA is not persuaded that any further mitigation or funding for long-term enhancements is required.

18.5. CONCLUSIONS

- 18.5.1. The ExA has concerns that the worst-case scenario has not been appropriately assessed in the ES [APP-110], in relation to traffic and transport. Nonetheless, the ExA is content that the maximum trip generation figures set out in the OCTMP [REP5-027, Annex A] have been robustly considered in the ES [APP-110]. As a result, the ExA considers it is absolutely imperative that such maximums are not exceeded to ensure that impacts do not occur above those that have been assessed in the ES, including for other receiving environments such as air quality and noise and vibration that rely upon estimated vehicle movements. Setting this out in a requirement within the dDCO would provide a much greater level of security for local communities that no exceedances would occur and would make it an offence for the Applicant to do so. This would not be the case, as currently drafted in the OCTMP. As a result, the ExA has added the without prejudice wording provided by the Applicant [REP8-052] to R15 of the rDCO.
- 18.5.2. The ExA is content that the Applicant has provided a suitable TA and accompanying travel plan measures which are incorporated into the final iteration of the OCTMP [REP5-027]. It is also clear that the Applicant has consulted NH and NCC throughout the application's preparation and Examination. The requirements of NPS EN1, Paragraphs 5.13.3 and 5.13.4 have therefore been met.
- 18.5.3. The ExA finds that the Applicant's proposed mitigation measures discussed in this Chapter would ensure that there would be no significant adverse effects on the SRN and LRN, including cumulative effects with other developments in the area and on recreational routes. The ExA concludes that the mitigation secured in R15 (OCTMP), R19 (OCoCP) and R24 (PRoW) of the rDCO would ensure that the Proposed Development meets the policy requirements of NPS EN1 Paragraphs 5.13.6, 5.13.8, 5.13.11 and 5.10.24.
- 18.5.4. Although the ExA is content that mitigation measures would reduce effects as far as reasonably possible, in accordance with NPS EN1, there would be residual adverse effects, as is evident from the Applicant's assessment [APP-110], particularly on the LRN, which would undoubtedly affect local communities and businesses. Whilst the assessment may only identify minor residual adverse effects in each case, many of the identified effects could occur at the same time and could cause disruption over a significant period of time, particularly when considered alongside other developments in the area, including the other OWFs.
- 18.5.5. For these reasons, the ExA concludes that traffic and transport effects carry moderate weight against the making of the Order. This would be the case for all Development Scenarios given that all of them could result in traffic movements up to the maximum levels set out in the OCTMP [REP5-027, Annex A].

19. NOISE AND VIBRATION

19.1. BACKGROUND AND POLICY CONTEXT

19.1.1. The Examining Authority's (ExA) initial assessment of principal issues [PD-006, Annex C] identified effects of noise and vibration as a matter of consideration. This section considers the noise and vibration effects and associated mitigation for the construction and operation of the Proposed Development. Noise effects in terms of onshore ecology have been considered in Chapter 21 of this Recommendation Report and in relation to offshore matters, in Chapters 8 and 9 of this Recommendation Report.

National Policy Statement

19.1.2. The assessment for noise and vibration as set out in Overarching National Policy Statement for Energy (NPS EN1), requires from the Applicant:

- the identification of noise sensitive areas that may be affected, description of the noise generating aspects of the development, the changes in the noise environment day-to-day and over the course of the proposed development, and measures to be employed in mitigating noise (NPS EN1, Paragraph 5.11.4);
- mitigating the adverse effects of noise with the use of good design and appropriate technologies (NPS EN1, Paragraph 4.5.2); and
- assessment of operational noise with respect to human receptors using the principles of the relevant British Standards and other guidance (NPS EN1, Paragraph 5.11.6).

19.1.3. In reaching a decision the Secretary of State (SoS) should be satisfied that:

- the Proposed Development demonstrates good design through suitable selection of plant, containment of noise within buildings, optimisation of plant layout, and the use of landscaping, bunds or noise barriers (NPS EN1, Paragraph 5.11.8);
- significant adverse impacts relating to noise are avoided, mitigated and minimised (NPS EN1, Paragraph 5.11.9);
- mitigation measures using engineering solutions, layout and good design, and administrative methods and restricting activities are adequate (NPS EN1, Paragraph 5.11.11); and
- if further noise mitigation is required through improved sound insulation to dwellings (NPS EN1, Paragraph 5.11.13).

Other Legislation and Policies

19.1.4. The legislation and guidance relevant to Noise and Vibration is set out in Environmental Statement (ES) Chapter 23 [APP-109, Section 23.4.1]. The Applicant's Planning Statement sets out the national, regional and local planning policies that are considered relevant to the Proposed Development [APP-285, Section 5].

19.2. THE APPLICATION

Environmental Statement

19.2.1. The Applicant's assessment of noise and vibration is set out in the ES in Chapter 23 [APP-109]. The ES chapter is supported by figures [APP-133] and appendices [APP-264] to [APP-267]. Other application documents that are relevant include the Outline Code of Construction Practice [APP-302] (OCocP) and Schedule of Mitigation and Mitigation Routemap [APP-282].

Scope and Methodology

- 19.2.2. The Applicant's assessment for Noise and Vibration considers the potential effects from the construction and the operation of the Proposed Development. This includes effects at landfall, along the onshore cable corridor and at the onshore substation. Noise and vibration from construction traffic was also considered. With the exception of construction phase off-site vehicular movements, the Applicant considers that the construction of Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) sequentially would be the worst-case during the construction phase. During the operation, either SEP and DEP concurrently and sequentially would represent the worst-case scenario for operational noise as these require more items of substation plant than SEP or DEP in-isolation.
- 19.2.3. Sensitive noise and vibration receptors (NSR) were identified and assessed at landfall, along the onshore cable corridor and at the onshore substation. The NSRs are presented within the ES on maps [APP-133, Figure 23.1].
- 19.2.4. The Applicant has adopted threshold values based on the ABC method (British Standard (BS) 5228) for assessment of construction noise [APP-109, Section 23.4.3.3]. Construction road traffic noise effects were determined by assessing the change in Basic Noise Level (BNL) in accordance with the methodology provided in the Calculation of Road Traffic Noise [APP-109, Section 23.4.3.4]. Although, where the 18 hour Annual Average Weekday Traffic (Total Vehicles) movements is less than 1,000, the Applicant has used the alternative calculation method detailed in 'A Guide to Measurement and Prediction of the Equivalent Continuous Sound Level Leq, Report by a Working Party for the Technical Sub-committee of the Noise Advisory Council'. For operational noise, the ES adopts a methodology in line with BS 4142 [APP-109, Section 23.4.3.6].
- 19.2.5. In relation to construction vibration effects, the ES adopts a methodology based on guidance in BS 7385-2 and BS 5228-2 [APP-109, Section 23.4.3.5]. The ES refers to Design Manual for Roads and Bridges LA111 which notes that a study area of 100m from the closest construction activity with the potential to generate vibration is normally sufficient to encompass vibration sensitive receptors. On this basis, the Applicant's assessment of vibration impacts extended to NSRs which are no further than 100m from the Order limits. The closest identified NSRs to the proposed landfall and onshore substation locations are further than 100 metres (m) away; and for that reason, the Applicant's assessment of vibration impacts due to construction of the landfall and substation has been excluded from the assessment scope. Due to the distance from NSRs to the onshore substation operational vibration effects were not consider any further [APP-109, Section 23.4.3.7].
- 19.2.6. The Applicant undertook baseline noise surveys at NSRs close to the landfall and the onshore substation [APP-109, Section 23.5.1]. No baseline noise measurements were obtained along the cable corridor to inform the construction phase noise assessment. Instead, the lowest threshold (for the BS 5228:2009+A1:2014 'ABC method') at all identified NSRs along the onshore cable corridor was assumed [APP-109, Paragraph 122]. This approach was agreed with Broadland District Council (BDC). For baseline construction traffic a BNL was calculated for each link likely to be used during the construction phase [APP-109, Section 23.5.2].
- 19.2.7. The same potential effects are considered in the cumulative assessment, except on-site construction noise at the onshore substation. The Applicant's assessment explains [APP-109, Table 23-27] this is because a negligible effect is predicted at all NSRs surrounding the onshore substation site from the Proposed Development and therefore, there is no potential pathway for cumulative construction noise impacts.

19.2.8. The worst-case scenario varies depending on which potential impact is being assessed, as set out in the ES [APP-109, Table 23-2].

Applicant's Assessment of Effects and Proposed Mitigation

19.2.9. The Applicant's proposed embedded mitigation that is common across the Proposed Development and relevant to noise and vibration is summarised in the ES [APP-109, Section 23.3.3]. Embedded mitigation specific to noise and vibration has been secured through Draft Development Consent Order (dDCO) Schedule 2, Part 1, R19, Outline Code of Construction Practice (OCoCP) [AS-009]. This includes a commitment to Best Practice Measures (BPM) implemented during the construction phase, detailed in the Construction Environmental Management Plan.

19.2.10. Additional mitigation specific to noise would be secured through a Construction Noise Management Plan (CNMP), as part of the OCoCP [APP-302] in R19 of the dDCO [AS-009], a Noise Management Plan (Operational) in R21 of the dDCO [AS-009], and a Construction Traffic Management Plan (CTMP) in R15 of the dDCO [AS-009]. These include:

- 1) Standard mitigation for adverse construction noise effects in the CNMP.
- 2) Enhanced mitigation measures to augment standard mitigation to ensure noise effects at specific NSRs are further minimised. The enhanced mitigation measures would be drawn up and agreed as part of the CNMP and would include measures that are listed in the Schedule of Mitigation and Mitigation Routemap [APP-282], such as temporary screening and selection of plant.
- 3) Outline BPM for vibration mitigation.
- 4) Enhanced mitigation to minimise construction traffic noise.

19.2.11. The conclusion in the ES [APP-109, Table 23-33] states that the residual adverse effects of the Proposed Development for noise and vibration would, at worst, be minor adverse for: construction along the onshore cable corridor; construction vibration and construction traffic noise. The Applicant considers all other residual effects to be negligible. The Applicant's cumulative assessment [APP-109, Section 23.7] did not find any greater impacts.

19.3. LOCAL IMPACT REPORTS

Broadland District Council and South Norfolk Council

19.3.1. BDC [REP1-066] and South Norfolk Council (SNC) [REP1-090] consider that the documentation indicates that the proposal could take place (both the construction and operational phase) without an unacceptable impact from noise and vibration on residents, if managed and operated appropriately. BDC and SNC also consider that the control of noise is adequately covered by the Requirements (R) in the dDCO.

North Norfolk District Council

19.3.2. North Norfolk District Council (NNDC) [REP1-082] considers that there is the potential for significant noise and vibration concerns that primarily relate to baseline evidence and the impact the baseline data has on suggested mitigation. NNDC is of the view that there is potential for the underestimation of evening and night-time noise impacts, as background noise may be lower than the survey indicates and that this could result in insufficient noise mitigation measures being selected, with adverse impacts on nearby receptors.

19.3.3. There are no substantive comments relating to noise and vibration in any of the other submitted LIRs.

19.4. THE EXAMINATION

19.4.1. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:

- 1) the adequacy of the assessment for noise;
- 2) the construction effects on sensitive receptors and adequacy of proposed mitigation during the day and for trenchless crossings at night; and
- 3) cumulative effects.

Adequacy of the Noise Assessment

Background Surveys along the Onshore Cable Corridor

19.4.2. NNDC in its LIR [REP1-082] identified that it is of the view that there is potential for the underestimation of evening and night-time noise impacts, as background noise may be lower than the survey indicates and that this could result in insufficient noise mitigation measures being selected.

19.4.3. The ExA examined this matter with the Applicant and the Local Authorities (LAs) [EV-005] [EV-020] [EV-024] [PD-010, Q1.20.1.1 and Q1.20.1.2] and asked it the approach of adopting a Category A threshold value (in accordance with the BS 5228:2009+A1:2014 ABC method) along the onshore cable route rather than undertaking background surveys was an appropriate approach.

19.4.4. NNDC accepted [REP2-058, Q1.20.1.1 and Q1.20.1.2] that using the lowest threshold (for the BS 5228:2009+A1:2014 ABC method) at identified NSRs for the assessment of construction noise would be an accepted noise target. BDC and SNC both set out [REP1-071] [REP1-102] that BS5228 is an appropriate standard by which to assess the impact of construction noise and vibration on vulnerable receptors. Further it was noted that this does not require a baseline survey due to the assumptions within the standard and Category A is the appropriate value to be used as this represents the most vulnerable receptor.

19.4.5. The Applicant set out [REP1-036, Q1.20.1.2] that baseline noise measurements were not deemed necessary to inform assessments of impacts along the cable corridor and this approach was considered robust and agreed with the Expert Topic Group during consultation [APP-109, Paragraphs 59 and 122].

19.4.6. The Applicant also noted [REP1-036, Q1.20.1.2] that receptors along the cable corridor (including around the main construction compound) are assumed to be Category A as per BS 5228-1. This applies the lowest possible threshold value for the onset of potentially significant effects; hence the assessment considers the worst-case for potential noise impacts on these receptors. If baseline measurements had been undertaken at these receptors, the only change to the assessment criteria would have been if high baseline noise levels were to be measured, thereby increasing the threshold value and making the assessment less onerous.

Main Construction Compound

19.4.7. BDC and SNC consistently raised concerns [EV-020] [EV-024], in relation to the main construction compound noise assessment and suggested that the potential for it to be used for eight years is not a temporary period and the use of operational noise standards would be more appropriate [REP1-071, Q1.20.1.1] [REP1-102, Q1.20.1.1].

19.4.8. The Applicant set out [REP1-036, Q1.20.1.3] that reference to eight years of construction compound use is the DEP and SEP sequential construction scenario.

Under this project scenario, the compound would be used for around two years per project, with a break of approximately three years between. This pattern of proposed usage is considered temporary and is similar to other projects (e.g. High Speed 2 and Lower Thames Crossing) where construction noise has been assessed using BS 5228-1. The Applicant also noted that the Control of Pollution Act 1974 (CoPA1974) is the primary piece of legislation related to construction noise impacts in the United Kingdom and Section (s) 60 of CoPA1974 provides LAs with the power to serve a notice imposing working restrictions to control of noise from construction works.

- 19.4.9. The ExA asked [EV-036] [EV-041] the Applicant to provide more justification for its position on these matters. The Applicant set out [EV-036] [EV-041] [REP3-109] in response that it is appropriate that a British Standard which is intended for construction (BS 5228-1:2009) should be applied to the temporary construction compound and that it is not appropriate to apply BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound, which is specifically not for construction. To suggest otherwise is not in accordance with standard practice. BDC and SNC set out [EV-036] [EV-041] that their primary concern in relation to this matter was the ability to be able to deal with any potential complaints that might arise.
- 19.4.10. The ExA asked [PD-012, Q2.20.1.1] BDC and SNC to provide more evidence to support their views that operational noise guidelines (BS4142) should be used at the main compound rather than construction guidelines (BS5228-1) and that any potential noise complaints cannot be adequately dealt with by other means. In response [REP3-121, Q2.20.1.1] [REP3-127, Q2.20.1.1], it was noted that further discussion had been held with the Applicant and it was proposed that the operation of the compounds could be assessed and controlled by utilising CoPA1974 s61 agreements which are standalone legally binding documents which can be issued for the main compound and any satellite compounds.
- 19.4.11. At the same time the Applicant provided a revised OCoCP [REP3-064, Paragraph 177] that secured the commitment to enter into s61 agreements for the main compound and secondary compounds. The ExA asked [PD-017, Q3.20.1.1] the parties why this was preferred, rather than securing mitigation as part of the dDCO.
- 19.4.12. The Applicant set out [REP5-049, Q3.20.1.1] that a s61 of CoPA1974 consent is preferred because it provides the LA with confidence that construction noise would be controlled outside the planning process, using their powers under CoPA1974. Further, at this stage in the design process, the Principal Contractor has not been appointed and final compound layouts are not determined, which is standard for projects going through the DCO process. Hence, final mitigation measures cannot be specified as part of the application and would be incorporated into a CNMP at the post-consent stage. BDC and SNC provided similar comments [REP5-067, Q3.20.1.1] [REP5-073, Q3.20.1.1].
- 19.4.13. On a related matter, the ExA asked [PD-010, Q1.20.2.5] whether any specified operational noise levels for the onshore substation should be secured. The Applicant set out [REP1-036, Q1.20.2.5] that R21 of the dDCO [REP1-003] had been revised to include noise level limits specified to ensure that impacts are no worse than of minor significance, based on a criterion from BS4142:2014+A1:2019 that the rating level of the operational noise does not exceed the background sound level by more than 5 decibels (dB).

ExA's Reasoning

- 19.4.14. The ExA considers that the use of a Category A threshold value for sensitive receptors along the onshore cable corridor to be an appropriate approach, because it follows guidance in BS 5228-1 and is one that was agreed by the LAs by the end of

the Examination. The ExA is content that this ensures a worst-case has been considered when assessing effects on sensitive receptors, as baseline noise levels could actually be higher than those assumed by the Category A threshold value.

- 19.4.15. In relation to the main compound, the ExA is persuaded by the Applicant's view that construction guidelines (BS5228-1) rather than operational noise guidelines (BS4142) are the most appropriate. This is based on the guidance set out in these guidelines and on the basis that other large projects (such as High Speed 2), whose construction compounds would be in situ for similar period of time, have also used construction guidelines (BS5228-1) to assess and mitigate noise effects. Further, the ExA is satisfied that a s61 consent, as secured in the final iteration of the OCoCP [REP8-023], the final version of which is secured by R19 of the Recommended Development Consent Order (rDCO) is an appropriate way of addressing construction noise effects from the main and secondary compounds, in addition to the measures that would be secured in the CNMP as part of the OCoCP, secured by R19 of the rDCO.
- 19.4.16. Overall, the ExA is satisfied that the assessment of noise and vibration has been robust.

Effects on Sensitive Receptors and Adequacy of Mitigation

Daytime Effects

- 19.4.17. The ES [APP-109, Table 23-24] [APP-266, Table 23.3.4] identifies moderate and major adverse effects associated with trenched works (cable duct and installation, cable pulling, installation of temporary access tracks and establishing temporary work areas) during the daytime.
- 19.4.18. The ES [APP-109, Paragraph 150] notes that guidance in BS 5228-1 indicates construction noise levels above the Threshold Value for fewer than 10 days (or 10 evenings/weekends or nights) in any 15 consecutive days, or 40 days or fewer (or 40 evenings/weekends or nights) in any six month period, would not normally be considered significant. The ES considers [APP-109, Paragraph 155] that as a worst-case, it is assumed that these works last for the entire month i.e. progressing at 250m per week. On this basis, the exceedance of the Threshold Value at an NSR would only last for one week. It is therefore considered highly unlikely that any exceedance of the Threshold Value would last for more than 40 days in any six month period or 10 days in any 15; hence, the identified moderate and major adverse impacts due to construction works along the cable corridor route are considered not significant.
- 19.4.19. However, potential effects from the main compound and trenchless crossings were considered to be over the Threshold Values and therefore daytime effects from these were considered to be significant [APP-109, Paragraphs 151 and 152]. The ES [APP-109] identifies that without mitigation there could be major adverse effects and in some cases [APP-266, Table 23.3.4], the exceedance of the threshold is significant. The ES [APP-109] sets out a number of generic mitigation measures, including the use of a CNMP to be provided post consent.
- 19.4.20. From the outset of the Examination [EV-020] [EV-024] [PD-010, Q1.20.4.1] the ExA explored whether the identified moderate and major adverse effects were likely to be capable of mitigation. As one of the worst-case scenarios, the ExA [PD-010, Q1.20.4.1] asked the Applicant to provide a detailed mitigation scheme for receptor CCR2C to demonstrate that the necessary reduction to the Threshold Values could realistically be achieved to ensure no significant adverse effects would occur.

- 19.4.21. The Applicant [REP1-036, Q1.20.4.1] responded that generic mitigation could achieve the following reductions in noise, such as:
- temporary screening - 5 to 10 dB (taken from BS 5228-1);
 - use of exhaust silencers - 5 to 15 dB depending on manufacture specifications for acoustic performance;
 - reduced numbers of plant - 3 dB;
 - reduced working day which a plant item would work – 3 dB based on the calculation procedure in BS 5228-1; and
 - increased separation distance of works to the receptor – variable, but 19 dB for the example of CCR2C based on the calculation procedure in BS 5228-1.
- 19.4.22. The Applicant noted [REP1-036, Q1.20.4.1] that the impact significance depends on some additional factors, not just the construction noise level. Of particular relevance is the duration of the effect, as impacts which last for less than 10 days in any 15 consecutive days, or 40 days in any six month period, would not be considered significant (in accordance with BS 5228-1). Hence, mitigation may not be needed if high noise levels from works is of a shorter duration.
- 19.4.23. With specific regard to the requested detailed mitigation scheme for CCR2C the Applicant identified [REP1-036, Q1.20.4.1] that the intention is to site the shaft in the centre of the cable corridor at this location. On this basis, the shaft would be at least 36m from CCR2C, reducing the predicted noise level at the property without mitigation to 70 dB LAeq. With screening, this noise level would be reduced to 60 to 65 dB LAeq and for daytime working this equates to an effect of low magnitude i.e. impacts are not significant.
- 19.4.24. The ExA explored this further [EV-036] [EV-041] and asked about the assumption that the cable(s) could be sited in the middle of the cable corridor at the location of CCR2C. The ExA still remained concerned whether all moderate and major adverse effects could be suitably mitigated and requested that the Applicant provide a similar mitigation scheme that was provided for CCR2C for all other receptors where moderate or major adverse effects (of significance) had been identified in the ES [APP-109]. The Applicant confirmed [EV-036] [EV-041] that some investigations for CCR2C had been undertaken and this was likely to be possible. The Applicant was, however, of the view that no further work was required for other receptors.
- 19.4.25. The ExA requested [PD-012, Q2.20.4.1] that further work be provided to demonstrate the effectiveness of potential mitigation measures. The Applicant set out [REP3-101, Q2.20.4.1] that for the main compound only significant effects were identified at night-time and the working hours secured by R20 of the dDCO ensured that only essential activities can take place and none of these activities are anticipated to occur at the main construction compound. Hence, the Applicant considered construction works at the main compound would not result in significant effects.
- 19.4.26. For trenchless crossings the Applicant set out that CCRs 25 and 26 would have medium effects due to daytime working and CCRs 2, 2C, 8, 17B and 26A would have a high effect magnitude during the daytime.
- 19.4.27. The Applicant noted [REP3-101, Q2.20.4.1] that upon further review of CCR17B, the building selected to define this receptor is not noise sensitive. The closest building to CC17B which is noise-sensitive is a residential dwelling approximately 50m to the south-east of CCR17B. This dwelling is 50m from the Order Limits, whereas the distance used in the calculations presented in ES Volume 3 Appendix 23.3 Construction Noise Assessment [APP-266] was 23.4m. The Applicant set out that using this updated distance, the predicted construction noise level at the dwelling is

66 dB LAeq, equating to a low magnitude of effect during the daytime, which is not significant.

- 19.4.28. For the other receptors the Applicant provided calculations of the potential mitigated noise levels [REP3-103, Appendix B.6]. This document included considerations such as the location of the trenchless crossing; duration of the crossing works; direction of drilling to minimise noise impacts; assumed drilling design to maximise distance from drill pit to receptor; and distance from the closest entry pit. The calculations incorporate an assumption that the cable would be in the centre of the cable corridor. The further work found that without screening, the predicted mitigated trenchless crossing noise levels at CCRs 2, 8, 25, 26 and 26A equate to effects of low or negligible magnitude (not significant) during the day and with screening CCR2C would also be of low or negligible magnitude (not significant) during the day.
- 19.4.29. The ExA requested [PD-017, Q3.20.4.1] that the above mitigation be added to the OCoCP or an initial draft of the CNMP and also examined the likelihood that the cable can be located in the middle of the cable corridor (as assumed in the further work) at each of the receptor locations considered.
- 19.4.30. In response, the Applicant set out [REP5-049, Q3.20.4.1] that an additional mitigation measure had been added to the OCoCP [REP5-029, Section 10.1.2] in relation to trenchless crossing design (as set out above). Further, the Applicant noted that the further calculations provided [REP3-103, Appendix B.6] are all on a worst-case basis, disregarding potential attenuation from local conditions such as screening, topography and absorptive ground; hence, the minimum distance would be the same for all receptors at 39m (without screening). With 10 dB of attenuation from screening, this distance could be reduced to 21m.

ExA's Reasoning

- 19.4.31. The ExA acknowledges that as a worst-case, it is assumed that trenched onshore cable works would progress at approximately 250 metres per week and on this basis, the exceedance of the Threshold Value at a receptor would only last for one week. This would be well within the 10 days in any 15 consecutive days guidance set out by BS 5228-1 for when effects might be considered significant. On this basis and given that R20 of the rDCO would control such activities to daytime working hours, the ExA is satisfied that there are unlikely to be any significant effects from trenched onshore cable works.
- 19.4.32. In terms of trenchless crossings during the day, at the request of the ExA the Applicant provided more information, including indicative mitigation schemes for receptors CCRs 2, 2C, 8, 25, 26 and 26A. The ExA is persuaded that these each show that it is possible to mitigate noise effects through separation distances and screening to ensure no significant effects would occur during daytime hours in accordance with BS 5228-1. The ExA is content that the final iteration of the OCoCP [REP8-023], that requires a CNMP to be agreed with LA's, secured by R19 of the rDCO provides sufficient mitigation in this regard.
- 19.4.33. Notwithstanding this, the ExA notes that whilst not considered significant by BS 5228-1, receptors would nonetheless experience some adverse effects and disruption as a result of the daytime onshore cable works. Matters associated with night-time working are considered in the next section of this Chapter.

Night-time Effects

- 19.4.34. The most significant effects identified in the noise and vibration assessment [APP-109] are those from trenchless works (also referred to here as Horizontal Directional

Drilling (HDD)) at night. Oulton Parish Council (PC) has raised several concerns in this regard, which can be summarised as:

- whether HDD works would require night-time working [REP1-088];
- sought clarification on what would constitute an emergency situation [REP3-126];
- the Applicant has not specified the exact methods by which they intend to mitigate the adverse impacts of such working, once it has become necessary [REP5-077];
- as well as discussing the minimising of overnight activity with the developers of the solar farm, there should also be dialogue with the residents, who would be directly impacted by this work at such extremely anti-social hours [REP5-077]; and
- there appears to be no mention of any acoustic barriers or mitigations to safeguard the residents most effected [REP6-025].

19.4.35. The ExA examined the effects of noise from HDD works at night-time throughout the Examination. This included:

- establishing the Applicant's confirmed position in relation to whether HDD works would be required at night, including at the solar farm at Oulton [PD-012, Q2.20.2.3 and Q2.20.4.2] [PD-021, Q4.20.2.1];
- seeking more information to show that potential significant effects can be suitably mitigated [EV-020] [EV-024] [PD-010, Q1.20.4.1];
- whether mitigation set out by the Applicant in response to second written questions [REP3-101, Q2.20.2.3] to avoid night-time working should be included in the OCoCP [PD-017, Q3.20.2.1];
- requesting further justification that six consecutive nights of HDD works would not have significant adverse effects on sensitive receptors based on guidance in BS 5228-1 and seeking further information about what mitigation could be used should works be required in an emergency [PD-021, Q4.20.2.2];
- exploring whether mitigation in the OCoCP should include restrictions to night-time working for HDD works, including what would constitute an emergency [EV-036] [EV-041];
- seeking wording from the Applicant to restrict trenchless crossings (other than in an emergency) to only those under the A11 (Crossing RDX048), the Cambridge to Norwich Railway (Crossing RLX002) and the crossing of the North Norfolk Railway line (Crossing RLX001) and seeking a definition of emergency works [PD-018, DC1.2.1.2]; and
- seeking clarification on the wording provided by the Applicant in their response [PD-018, DC1.2.1.2] to the ExA proposed changes to the DCO [PD-021, Q4.20.2.3] [PD-022].

19.4.36. The Applicant's responses to the concerns of Oulton PC and the questions set out above from the ExA are summarised under the following headings:

Solar Farm, Oulton

- 1) The worst-case approach was to assume the possibility of work during the night-time but this would only be the case where long drills are needed [REP1-032]. Although, the Applicant later confirmed [REP7-065, Q4.20.2.1] that HDD works at the Solar Park would only be carried out at night if there was an emergency situation.
- 2) The longest proposed drill would be at the Solar Park (Crossing ID 200). The Crossing Schedule has been corrected to include the option to open-cut at this location where possible. It is therefore highly unlikely that a 600m drill would be required. The length of the HDD would be minimised as far as possible. HDD is only required underneath the solar farm photovoltaic panels, the final location of which is not known at this time.

- 3) Mitigation measures could be used to minimise the likelihood that night-time working at the Solar Farm, such as: commence works at the start of the shift to ensure that each phase of work is completed in a single shift; ensure that no bores are started with the potential to not be completed before the end of the working week; maintain discussions with Docking Solar Park and exchange designs; and undertake crossings in flat formation, reducing risk and number of operations required for the installation of each duct.
- 4) The Applicant noted that the exact methodology would be set out within a Construction Method Statement which would form part of the final CoCP [REP3-101, Q2.20.2.3].

The Need for Night-time HDD

- 5) The Applicant confirmed that it had proposed night-time trenchless crossing works only where absolutely necessary e.g. at railway crossings, due to a Network Rail requirement. At most trenchless crossings would only be undertaken in an emergency, the only anticipated reason for this is due to the collapse of a tunnel, requiring the drill head to be rescued. This would only require night-time working for the remainder of that drill profile, which would be completed at a rate of 80m per day [REP1-036, Q1.20.4.1] [REP3-101, Q2.20.4.2].
- 6) Night-time working would only be undertaken in an emergency, and this would only be for the duration of one drill profile. In any event, two drill failures (and the subsequent need for night-time working) would be separated by a period of daytime only working. On that basis, trenchless crossing works during the evening and weekends, or night-time periods is not anticipated to last for more than 10 days in any 15 consecutive days; hence, impacts during these time periods would not be significant [REP1-036, Q1.20.4.1].

What Constitutes an Emergency

- 7) Emergency works could be: unexpected ground conditions; equipment failure; unstable collapsing bore; delays during duct installation; recovery of seized or stuck cable ducts; clearance of drilling fluid breakout; and labour issues [REP3-101, Q2.20.4.2].
- 8) A definition of an emergency was added to R20 of the dDCO [REP5-005].

Whether there would be Significant Effects

- 9) The predicted construction noise effects are based on guidance in BS 5228-1, which is an accepted approach as industry best practice in the UK Acoustics industry. Based on the criteria in BS 5228-1, the effects of night-time noise are assessed as not significant.
- 10) BS5228-1 uses evidence taken from the World Health Organisation (WHO) publication Night Noise Guidelines for Europe (NNG) for its night-time noise level criteria. The adopted criterion is designed to avoid significant health effects, as a result of noise associated awakenings over a long time period, without requiring residents to close their windows. The WHO NNG guidance assumed windows were partially open and an outdoor to indoor noise level difference of 15dB; thereby implying an indoor noise level of 40dB LAeq for the onset of high effects and 35dB LAeq for medium effects. With windows closed, the outdoor to indoor noise level difference is 25 to 30dB LAeq i.e. 10 to 15 dB higher than that with windows open. If the residents close their windows, the potential worst-case indoor noise levels from construction would be 25 to 30dB LAeq (CCR16B) and 28 to 32dB LAeq (CCR16C). These indoor noise levels are at least 3dB below the threshold for the onset of medium effects. Hence, significant adverse effects are not anticipated [REP7-065, Q4.20.2.2].

- 11) Whilst measures would be introduced to try and avoid the need for temporary rehousing, the OCoCP does include this as an option in the event that all reasonable mitigation measures and BPM results in construction noise exceeding threshold levels. Therefore, following implementation of these mitigation measures, the effects would not be significant [REP8-052].

Mitigation Measures

- 12) Mitigation measures for the control of impacts from trenchless crossing works are presented in the ES [APP-109, Section 23.6.1.2.3], including: screening; exhaust silencers; reduced numbers of plant; halving the time within a working day which a plant item would work and increased separation distances [REP1-036, Q1.20.4.1].
- 13) HDDs are not required to be continuous and would follow the agreed site working hours set out in R20 of the draft DCO [REP5-049, Q3.20.2.1].
- 14) It would be possible to minimise impacts at night-time as far as possible, by: minimising the length of the drill; implementation of Best Practicable Means; locate trenchless crossing entry pits as far as possible from receptors; increased separation distance of noisy plant to receptors; works scheduling to avoid high noise levels at receptors for more than 10 days in any 15 consecutive days, or 40 days in any six consecutive months; and the use of temporary noise barriers [REP7-065, Q4.20.2.2].
- 15) The OCoCP was updated [REP7-037] to clarify that the CNMP would include an assessment of the potential for emergency 24-hour working to cause significant effects. If the CNMP finds that significant effects could occur due to emergency 24-hour working, a supply of temporary acoustic barriers would be available at the trenchless crossing location. If an emergency occurs and 24-hour working is required, these would be erected in compliance with the requirements of the CNMP [REP7-065, Q4.20.2.2].
- 16) Applicant is committed to keeping local residents informed post-consent and having clear mechanism in place to facilitate dialogue in the construction phase. The OCoCP [REP5-029, Section 2.4] notes that a designated Local Community Liaison Officer would respond to any public concerns, queries or complaints in a professional and diligent manner as set out by a project community and public relations procedure which would be submitted for comment to the relevant LA [REP6-021].
- 17) Applicant considers that adequate controls exist within the dDCO to manage the ability to carry out works at night-time [REP8-052].

Whether a Restriction on Night-time HDD is Necessary

- 18) R20 of the dDCO [REP8-005] and the OCoCP [REP8-023, Section 3] restricts onshore works to specified daytime hours. If any scheduled night-time works are proposed, this would need to be agreed in advance with the LA. In approving such works, the LA can ensure that the necessary mitigation measures would be implemented and the works scheduled appropriately to minimise potential impacts on sensitive receptors [REP8-052].
- 19) The Applicant did not consider the restriction of HDD works in R20 other than in an emergency or at the A11 (Crossing RDX048), the Cambridge to Norwich Railway (Crossing RLX002) and the crossing of the North Norfolk Railway line (Crossing RLX001) to be necessary or appropriate and did not provide drafting to this effect [REP8-052].
- 20) Including additional restrictions on HDD night-time working could result in non-compliance with a Statutory Undertaker's request and result in the unintended consequence of extending the construction programme [REP8-052].
- 21) The approach proposed by the Applicant, and the controls which already exist, are well precedented. It is noted that the Orsted Hornsea Project Four Offshore

Wind Farm (Hornsea 4) Order 2023 does not include any requirement relating to working hours as these are secured within the CoCP. The Norfolk Vanguard Offshore Wind Farm (Norfolk Vanguard) Order 2022, which also includes HDD, does not include any specific night-time restrictions on HDD works [REP8-052].

- 19.4.37. The concerns of Oulton PC and the matter of whether night-time restrictions are required, as examined by the ExA, remained unresolved at the end of the Examination.

ExA's Reasoning

- 19.4.38. The ExA is mindful that in accordance with guidance in BS 5228-1 [APP-109] potentially significant effects could occur at 50 dB or more during the night-time period. The ES [APP-109] [APP-266] finds that as a result of trenchless crossings at night, this threshold could be exceeded significantly at numerous receptors. For example, at CCR2C the exceedance would be 39 dB LAeq,T.
- 19.4.39. Whilst the Applicant has provided more information [REP3-103, Appendix B.6] to demonstrate that it is likely that mitigation is available to reduce such effects to not significant during day-time hours, this does not demonstrate that this would be the case at night. Consequently, and despite several requests from the ExA for the Applicant to show that all potentially significant effects identified in the ES are likely to be capable of mitigation this has not been provided.
- 19.4.40. Instead, the Applicant suggests that trenchless crossings at night would only occur in an emergency or where a statutory undertaker such as Network Rail requires it for safety reasons. The Applicant is also of the view that R20 of the dDCO [REP8-005] and the OCoCP [REP8-023, Section 3] restricts onshore works to specified daytime hours and that if any scheduled night-time works are proposed, this would need to be agreed in advance with the LA. In approving such works, the LA can ensure that the necessary mitigation measures would be implemented, and the works scheduled appropriately to minimise potential impacts on sensitive receptors [REP8-052];
- 19.4.41. The ExA considers that as drafted in both the initial dDCO [APP-024] and the revised wording in the last iteration of the dDCO [REP8-005] provided by the Applicant, R20 would allow all trenchless crossing works to be undertaken unrestricted in terms of timing and duration without the need for agreement with the relevant LA.
- 19.4.42. The Applicant has set out that despite the ES [APP-109] setting out that trenchless crossing works could occur for more than 10 days in any 15 consecutive days, due to the maximum length of drilling required any works that would be required at night would actually be 6.25 days and not more than 10 days in any 15 consecutive days, or 40 days in any six consecutive months and therefore not considered significant by guidance in BS 5228-1. Whilst this is noted by the ExA, guidance in BS 5228-1 also sets out that the timing of the effect is also an important consideration and night-time impacts being more likely to be considered significant than day-time impacts. The ExA considers that the potential for six consecutive nights of trenchless crossing works, with the potential for noise levels to be well above the Thresholds Values at night-time, could have significant adverse effects on receptors.
- 19.4.43. The option to close windows has been referred to by the Applicant, which would reduce indoor noise levels. However, the ExA is mindful that such works could be undertaken during the summer period where closing windows would be undesirable.
- 19.4.44. The Applicant has also noted that if significant effects cannot be avoided, then there would be the option to temporarily rehouse the occupants of affected homes. The

ExA considers this in itself would be a significant effect on the occupants due to the level of disruption this would cause to them.

19.4.45. Whilst acknowledging the additional wording added to the OCoCP [REP8-024] by the Applicant to try and avoid trenchless crossing works at night, the ExA is not satisfied that the Applicant has suitably demonstrated that significant effects during night-time trenchless crossing works can be sufficiently mitigated in all cases.

19.4.46. In terms of the three crossings where night-time works are identified as being necessary these are the A11 (Crossing RDX048), the Cambridge to Norwich Railway (Crossing RLX002) and the crossing of the North Norfolk Railway line (Crossing RLX001). Receptors CCR3 and CCR5 are closest to the North Norfolk Railway line crossing. The ES identifies only negligible effects unmitigated for CCR3 and for CCR5 predicted noise levels would only be 5 dB over the night-time low impact threshold unmitigated. Receptor CCR31 would be closest to the trenchless crossings that would go under both the A11 and the Cambridge to Norwich Railway and unmitigated would be only 4 dB over the night-time low impact threshold. The ExA considers that it is very likely that effects at both CCR5 and CCR31 could be mitigated by either temporary screening or locating the entry pit for the works further away from that assumed in the ES. The ExA is therefore satisfied that no significant adverse noise effects would occur from the trenchless crossings identified to be undertaken at night.

19.4.47. The Applicant notes that other DCOs (Hornsea 4 and Norfolk Vanguard) have not had restrictions on trenchless crossing works set out in them. However, the ExA finds that the specific circumstances for the Proposed Development presented in Examination, means that it is imperative in this case. In addition, it also appears based on the Applicant's response to a related question [REP3-101, Q2.20.2.2] that for Hornsea 4 and Norfolk Vanguard drafts of the CNMPs were provided, which is something that the Applicant declined to provide despite several requests from the ExA during the Examination.

19.4.48. Given all of the above, the ExA considers it is essential that trenchless crossing works at night are restricted to emergency works only or at the three crossings where the Applicant is required by a statutory undertaker to do so for safety reasons. The ExA proposes the following changes to R20, sub-paragraph (2) in its rDCO:

“(2) Outside the hours specified in sub-paragraph (1), construction work may be undertaken for essential activities including but not limited to:-

*(a) continuous periods of operation that are required as assessed in the environmental statement, such as concrete pouring, drilling, dewatering, cable jointing, pulling cables (including fibre optic cables) through ducts and HDD; **at three locations only: the A11 (Crossing RDX048); the Cambridge to Norwich Railway Line (Crossing RLX002); and the North Norfolk Railway Line (Crossing RLX001);***

(b) delivery to the onshore works of abnormal loads that may otherwise cause congestion on the local road network;

(c) works required that may necessitate the temporary closure of roads;

(d) onshore works at the landfall;

(e) commissioning or outage works associated with the National Grid substation connection works;

(f) electrical installation; or

(g) emergency works.”

19.4.49. The ExA notes that the Applicant and Interested Parties have not seen the wording and the SoS may wish to consult them before imposing the amendments.

19.4.50. The ExA does not consider such a provision would result in non-compliance with a Statutory Undertaker’s request, as night-time works at the three affected crossings would be allowed in the rDCO. Further, it would not result in the unintended consequence of extending the construction programme, as the Applicant has set out numerous times that it is assumed that trenchless crossing works would only be undertaken in an emergency, which would still be possible in the rDCO.

19.4.51. On the matter of what would constitute an emergency, the ExA is content that the Applicant’s added wording to R20 of the dDCO [REP8-005] is appropriate.

Cumulative Effects

Bluestone Cottage and The Old Railway Gatehouse

19.4.52. Oulton PC raised a number of concerns [REP1-088] [REP3-126] [REP5-077] [REP6-025] with regard to the cumulative effects of the Proposed Development on the properties known as Bluestone Cottage (receptor CCR16B) and The Old Railway Gatehouse (receptor CCR16C). This included:

- Bluestone Cottage would experience trenchless crossing works alongside the temporary loss of access to their property [REP1-088];
- The Old Railway Gatehouse would be subject to cumulative traffic and trenchless crossing works; and
- it would be almost impossible to sleep through night-time trenchless crossing drilling, for the residents of Bluestone Cottage and The Old Railway Gatehouse [REP5-077].

19.4.53. Oulton PC stated [REP3-126] that a noise and vibration assessment carried out for Orsted Hornsea Project Three Offshore Wind Farm (Hornsea 3) at The Old Railway Gatehouse resulted in the need for mitigation in the form of a highway intervention scheme, and mitigation works to the property. Mitigation was in the form of the smoothing of an existing railway hump outside the property, acoustic fencing installation and triple acoustic glazing throughout the property, as well as monitoring for traffic noise and vibration for the duration of the operation of the main construction compound.

19.4.54. Oulton PC also noted [REP6-025] that there is confusion with the updated OCoCP and the proposed trenchless crossing works at the solar farm, with the revised Crossing Schedule [REP5-025] showing a mix of HDD/Open Cut works at this location.

19.4.55. Matters associated with access to Bluestone Cottage (CCR16B) have been examined in the Chapter 18 of this Recommendation Report. The ExA examined matters associated with trenchless crossing in the area [PD-012, Q2.20.2.3] [PD-021, Q4.20.2.1 and Q4.20.2.4] cumulative effects on The Old Railway Gatehouse (CCR16C) [EV-036] [EV-041] and visited both sites at the Accompanied Site Inspection (ASI) 2 [EV-028].

19.4.56. The Applicant’s response to these concerns set out [REP2-043] that cumulative traffic noise impacts have been appropriately assessed [APP-265] and residual cumulative

construction traffic noise impacts are not significant. Further, the OCoCP identifies the process that would be followed in developing the CNMP, which would apply throughout that stage of construction and would detail standard measures (best practicable means) and where applicable, mitigation measures. The Applicant noted that the CNMP would be developed based on the confirmed list of plant and equipment proposed by the appointed Principal Contractor for that phase of the works, i.e. confirming the actual expected noise levels and location of works during construction activities and after implementation of the specific noise control measures agreed through the CNMP, residual construction noise impacts would be further minimised and were considered not significant.

19.4.57. The Applicant also set out [REP2-043] that there was a commitment in the OCTMP [REP5-027] to adhere to established caps on HGV movements required on discrete links to manage the potential for cumulative impacts with the Norfolk Vanguard, Norfolk Boreas and Hornsea 3, including the B1145, B1149 and the Street. With regard to the Bluestone Cottage, the Applicant clarified [REP2-043] that there would be no loss of access to the property.

19.4.58. With regard to trenchless crossing works close to both receptors, the Applicant identified [REP6-021] that the construction noise assessment [APP-266] included an assumption that the trenchless crossing entry pit would be located as close as possible to Bluestone Cottage (CCR16B) and The Old Railway Gatehouse (CCR16C), on the edge of the redline boundary. The assumed distances from the trenchless crossing works to the properties were 61m to CCR16B and 80m to CCR16C. The Applicant submitted a potential design for the trenchless crossing under the Solar Park [REP1-037], which shows that the predicted trenchless crossing locations would be further from the nearby properties than assumed in the assessment calculations. It was noted that the minimum distance from the properties to the drilling works would depend on the direction which the drilling takes place. Updated calculated noise levels were provided based on the revised distances, as follows:

- 1) Drilling east to west: CCR16B would be around 140m from the works, calculated construction noise levels are 55 dB LAeq, equating to an effect magnitude of high during night-time working. CCR16C would be around 450m away, calculated construction noise levels are 42 dB LAeq which is a negligible effect.
- 2) Drilling west to east: CCR16B would be around 725m away, calculated construction noise levels are 37 dB LAeq which is a negligible effect. CCR16C would be around 105m away, calculated construction noise levels are 58 dB LAeq which is a high effect during night-time working.

19.4.59. The Applicant also clarified [REP6-021] that the predicted construction noise effects are based on guidance in BS 5228-1, which is an accepted approach as industry best practice in the UK Acoustics industry. Based on the criteria in BS 5228-1 the effects of night-time noise are assessed as not significant.

19.4.60. In terms of the crossing schedule, the Applicant noted [REP7-077] the schedule purposely shows a mix of open cut and trenchless crossings to allow flexibility, subject to the final design of the solar farm. Further, depending on which areas of the solar farm site are developed in the final design, there is likely to be the opportunity to open cut some sections of this site, with shorter sections of trenchless crossing in the areas where solar panels are installed. This could for example involve two shorter trenchless crossing crossings of the solar arrays, rather than one longer crossing. Under this scenario there would be a reduced risk of night-time working being required as each drill would be of shorter length and duration.

19.4.61. The concerns of Outlon PC remained unresolved at the end of the Examination.

ExA's Reasoning

- 19.4.62. The ExA is mindful that the final iteration of the Outline Construction Traffic Management Plan (OCTMP) [REP5-027] secures a cumulative cap for HGV movements along with Norfolk Vanguard, Norfolk Boreas and Hornsea 3 projects the on Link 131 on which The Old Railway Gatehouse is located. This would ensure that noise impacts from HGV's would not be worse than those already agreed and permitted by the Norfolk Vanguard, Norfolk Boreas and Hornsea 3 projects. The ExA is also mindful that Oulton PC has set out that The Old Railway Gatehouse has already received mitigation for this level of HGV traffic and the ExA observed these measures at ASI2. Consequently, the ExA is satisfied that road traffic noise from the Proposed Development would not be any worse than already permitted and mitigated against. The ExA is also content that based on the information provided by the Applicant, access can be maintained to Bluestone Cottage at all times.
- 19.4.63. Turning to the effects of trenchless crossings at both of these receptors, the ES [APP-109] [APP-266] identifies that noise levels are predicted to be 64 dB at Bluestone Cottage and 61 dB at The Old Railway Gatehouse. During the day these would have negligible effects, medium effects in the evening/weekends and a high magnitude of effect at night based on BS 5228-1 guidance. The Applicant has provided a potential design for the trenchless crossing under the Solar Park [REP1-037] and anticipated noise levels could be reduced to 55 dB LAeq at Bluestone Cottage is drilled east to west and 58 dB at The Old Railway Gatehouse LAeq if drilled west to east. The ExA is mindful that with the use of temporary screening, the noise levels could be reduced by a further 5-10 dB. Given this and the other generic mitigation set out by the Applicant [REP1-036, Q1.20.4.1], the ExA is satisfied that there is a realistic likelihood that mitigation is available to ensure that there would be no significant adverse effects from noise from trenchless crossing works even if works are required in an emergency at night.
- 19.4.64. Given the above secured mitigation measures and their expected efficacy, the ExA is content that suitable mitigation is available and secured through the final iterations of the OCoCP [REP8-023] and OCTMP [REP5-027] to ensure that there would be no significant cumulative effects on Bluestone Cottage or The Old Railway Gatehouse.

Cumulative Effects with Other Projects

- 19.4.65. A number of parties [too many to list] have raised more general concerns about the cumulative effects of traffic and construction noise on receptors with other projects in the area, including Norfolk Vanguard, Norfolk Boreas and Hornsea 3.
- 19.4.66. The ES [APP-109, Paragraph 187] found that mitigation measures are required for construction traffic flows on Link 137 in order to ensure additional traffic does not result in a change in the basic noise level of 3dB or more for a period of 40 or more days in any 6-month period. The ExA asked the Applicant where such measures were secured in the dDCO [PD-010, Q1.20.2.3]. In response, the Applicant provides a revised OCTMP [REP1-021, Section 4.2] which secured the identified mitigation.

ExA's Reasoning

- 19.4.67. The ExA acknowledges the concerns about cumulative noise effects from construction works and traffic associated with the Proposed Development in the area. The ExA accepts that the Proposed Development along with the other projects would alter the rural nature and feel of the area and the ExA considers this should be more readily recognised by the Applicant.

- 19.4.68. The ExA is nonetheless mindful that the effects of construction traffic noise have been assessed [APP-109] [APP-265] including cumulatively with the other wind farm projects. The methodology used has not raised any concerns from NNDC, BDC or SNC and the ExA is content that a robust assessment has been undertaken.
- 19.4.69. The only mitigation required once the traffic limits (for transport related reasons) are taken into account [APP-109, Paragraph 185] is on Link 137. The Applicant has provided a revised OCTMP that secures the identified mitigation. The ExA is content that on this basis there would not be any significant cumulative noise effects from construction traffic.
- 19.4.70. The final iteration of the OCoCP [REP8-023, Section 11.1.4] also includes measures specific to cumulative noise. This includes the appointed Principal Contractor liaising with the principal construction contractors for the Norfolk Vanguard, Norfolk Boreas and Hornsea 3, if the relevant projects overlap temporally and spatially. This liaison would ensure that simultaneous working at similar locations would be considered (alongside appropriate mitigation measures), thereby minimising the potential for cumulative construction noise effects to occur. Further, the ExA is mindful that the other projects would themselves provide mitigation to avoid significant adverse noise effects during construction works.
- 19.4.71. Given all of this and that the ExA has already concluded earlier in this chapter that the Proposed Development would not result in any significant adverse noise effects, subject to restrictions on night-time trenchless crossing works in the rDCO, the ExA is satisfied that there would be no significant adverse cumulative effects.

19.5. CONCLUSIONS

- 19.5.1. The ExA is content that the noise and vibration effects from the Proposed Development have been robustly assessed in line with NPS EN1, Paragraphs 5.11.4 and 5.11.6.
- 19.5.2. The ExA is persuaded that the information provided by the Applicant demonstrates that no significant effects would occur during day-time hours in accordance with BS 5228-1. The ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO and R20 construction hours of the rDCO provide sufficient mitigation in this regard.
- 19.5.3. The ExA has found that significant adverse noise effects on a number of receptors cannot be ruled out and that the last iteration of the dDCO [REP8-005] provided by the Applicant at R20 would allow such works to be undertaken unrestricted in terms of timing and duration. Consequently, the ExA is of the view that trenchless crossing works at night should be restricted in R20 to emergency works only unless in relation to the three crossings identified that require night-time works to meet statutory undertaker requirements. The ExA is content that night-time works can be undertaken at the three crossings without significant noise effects on the closest receptors following mitigation. The ExA has provided this wording in the rDCO.
- 19.5.4. The ExA is satisfied that following mitigation there are unlikely to be any significant cumulative effects at Bluestone Cottage and The Old Railway Gatehouse, Oulton. The ExA has also found that there would be no significant cumulative noise effects from construction works or traffic.
- 19.5.5. Although no significant adverse effects have been identified by the ExA (should trenchless crossings be restricted to emergency works and at the three crossings identified), in accordance with NPS EN1, Paragraphs 4.5.2, 5.11.4, 5.11.8, 5.11.9 and 5.11.11, there would undoubtedly be minor residual adverse effects at many

receptors that would cause disruption. The ExA therefore considers that the effects of construction noise carry minor weight against the making of the Order for all Development Scenarios.

For the avoidance of doubt, if the SoS does not accept the ExA's proposed amendments to R20 in the rDCO and trenchless crossings remain unrestricted at night-time, the ExA considers significant adverse residual effects could occur at a number of receptors and the Proposed Development would not meet the requirements of NPS EN1, Paragraphs 4.5.2, 5.11.4, 5.11.8, 5.11.9 and 5.11.11. In this circumstance, the ExA considers that the effects of construction noise would carry moderate weight against the making of the Order for all Development Scenarios.

20. LAND USE

20.1. BACKGROUND AND POLICY CONTEXT

20.1.1. The assessment for Land Use as set out in the Overarching National Policy Statement for Energy (NPS EN1) requires the Applicant:

- to seek to minimise impacts on the best and most versatile (BMV) agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations (NPS EN1, Paragraph 5.10.8);
- to identify any effects and seek to minimise impacts on soil quality taking into account any mitigation measures proposed (NPS EN1, Paragraph 5.10.8);
- for developments on previously developed land, ensure that they have considered the risk posed by land contamination (NPS EN1, Paragraph 5.10.8); and
- to safeguard any mineral resources on the proposed site as far as possible, taking into account the long-term potential of the land use after any future decommissioning has taken place (NPS EN1, Paragraph 5.10.9).

20.1.2. In reaching a decision the Secretary of State for Energy Security and Net Zero (SoS) should ensure:

- Applicants do not locate on BMV agricultural land, without justification; but that little weight should be given to the loss of poorer quality agricultural land except in areas (such as uplands) where particular agricultural practices may themselves contribute to the quality and character of the environment or the local economy (NPS EN1, Paragraph 5.10.15); and
- that where a proposed development has an impact upon a Mineral Safeguarding Area (MSGA), the SoS should ensure that appropriate mitigation measures have been put in place to safeguard mineral resources (NPS EN1, Paragraph 5.10.22).

Other Legislation and Policies

20.1.3. Other legislation, policies and guidance relevant to the Proposed Development are set out in the Environmental Statement (ES) [APP-103, Section 17.4.1], [APP-105, Section 19.4] and in Chapter 3 of this Recommendation Report. The Planning Statement [AS-031] also sets out relevant legislation, policies and guidance.

20.2. THE APPLICATION

Environmental Statement (ES)

20.2.1. The Applicant's assessment of Land Use is set out in the ES in Chapter 19 Land Use, Agriculture and Recreation [APP-105] and Chapter 17 Ground Conditions and Contamination [APP-103]. Other application documents that are relevant include the supporting figures to Chapter 19 of the ES [APP-130], the Land Quality Desk Study and Preliminary Risk Assessment Report [APP-206], the Waste Assessment (Onshore Development) [APP-207] and the Outline Code of Construction Practice (OCoCP) [AS-009].

Scope and Methodology

20.2.2. The Applicant has assessed [APP-105] the construction effects of the Proposed Development on: agricultural drainage, temporary loss of agricultural land, Agri-environment schemes, soil degradation and loss to erosion, disruption to existing

utilities, deterioration of blue flag beaches, disruption to onshore coastal recreational assets and finally the disruption to users of inland recreational assets. For the operational phase of the Proposed Development, the Applicant has assessed to effect on disruption to field drainage, permanent loss of agricultural land, Agri-environment schemes, disruption to existing utilities and soil heating. The study for direct effects is the Order limits and for indirect effects up to the county boundary of Norfolk.

- 20.2.3. In terms of the cumulative effects with other projects, the Applicant assessed [APP-105] the effects of constructions works on: agricultural drainage, temporary loss of agricultural land, Agri-environment schemes, soil degradation and loss to erosion, deterioration of blue flag beaches, disruption to onshore coastal recreational assets and disruption to users of inland recreational assets. Cumulative effects were also assessed for the permanent loss of agricultural land during operation.
- 20.2.4. For ground condition and contamination, the study area is based on the Order limits plus a 250 metre (m) buffer for potential sources of contamination and receptors. The Applicant has assessed [APP-103] during construction: exposure to contaminated soils and groundwater and associated health impacts, effects on groundwater quality and resources, effects on surface water quality, sterilisation of mineral resources and effects on the built environment. During operation, the Applicant has assessed: exposure to contaminated soils and groundwater and associated health impacts, effects on controlled waters, sterilisation of mineral resources and effects on the built environment. The same matters were assessed for cumulative effects with other projects.
- 20.2.5. It is unclear from the ES [APP-105] whether the assessment methodology was agreed with any relevant body. However, no concerns were raised by any party in relation to such matters.
- 20.2.6. Matters associated with recreational routes are considered in the Chapter 18 of the Recommendation Report.

Applicant's Assessment of Effects and Proposed Mitigation

- 20.2.7. The Applicant's proposed embedded mitigation that is common across the Proposed Development is summarised in the ES [APP-105, Section 19.3.3] [APP-103, Section 17.3.3]. Embedded mitigation specific to Land Use has been secured through Draft Development Consent Order (dDCO) Schedule 2, Part 1, R19, Outline Code of Construction Practice (OCoCP) [AS-009] and includes:
- control measures for contaminated land and groundwater;
 - surface water, groundwater and drainage management;
 - pollution prevention and response;
 - soil management and reinstatement; and
 - mitigation for utility providers.
- 20.2.8. Additional Mitigation specific to the Land Use has been secured through dDCO Schedule 2, Part 1, R17 Operational Drainage Plan [AS-009].
- 20.2.9. The conclusion in the ES states that the residual adverse effects of the Proposed Development on Land Use during construction would be moderate adverse for temporary loss of agricultural land and minor adverse for:
- agricultural drainage;
 - soil degradation and loss to erosion;
 - disruption to users of inland recreational assets;

- exposure to contaminated soils and groundwater and associated health impacts;
- effects on groundwater quality and resources;
- effects on surface water quality;
- sterilisation of mineral resources; and
- effects on the built environment.

20.2.10. During operation, there would be moderate adverse residual effects for the permanent loss of agricultural land and minor adverse residual effects for:

- disruption to field drainage;
- soil heating;
- exposure to contaminated soils and groundwater and associated health impacts;
- effects on controlled waters;
- sterilisation of mineral resources; and
- effects on the built environment.

20.2.11. There may also be the potential for residual adverse effects from the Proposed Development during construction and operation on Agri-environmental schemes. The cumulative effects assessment [APP-103] [APP-105] found the same level of residual adverse effects, with other projects, as those set out above for the Proposed Development.

20.3. LOCAL IMPACT REPORTS

Broadland District Council and South Norfolk Council

20.3.1. The Local Authorities (LA) [REP1-066] [REP1-090] were silent on the matter of Land Use.

North Norfolk District Council

20.3.2. North Norfolk District Council (NNDC) [REP1-082] consider that the primary consideration for land use and agriculture relates to the timing of works (such as avoiding taking agricultural land out of production for long periods of time) how works are undertaken (to be agreed within the OCoCP including the method for handling/storing soils. As such the significance of any impacts are dependent on the Requirements (R) to be agreed within the DCO.

Norfolk County Council

20.3.3. Norfolk County Council (NCC) [REP1-080] in its capacity as the Mineral Planning Authority does not object to the Proposed Development provided that the Applicant constructs the cable corridor in the manner set out in the Applicant's Preliminary Environmental Information Report and continues to work with NCC regarding the mitigation of impacts on the MSGA.

20.4. THE EXAMINATION

20.4.1. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on are:

- 1) the loss of agricultural land;
- 2) effects on individual businesses;
- 3) effects on soils, including handling and heating, drainage and water supplies;
- 4) effects on Agri-environmental schemes;
- 5) the design and placement of link boxes; and
- 6) ground conditions, contamination and sterilisation of mineral resource.

Loss of Agricultural Land

- 20.4.2. The ES [APP-105, Paragraph 115] sets out that the quality of the agricultural land present within the study area primarily consists of Grade 3 (77%), but also includes Grade 2 (17%) and Grade 4 (3%). The ES [APP-105, Paragraph 119] identifies that the site selection process has sought to minimise land take and avoid wherever possible the likelihood of sterile land parcels resulting from construction activity within the study area. This has involved aligning the study area with field boundaries and utilising existing vehicle access tracks where possible.
- 20.4.3. The ExA asked the Applicant [PD-010, Q1.16.1.7] to provide the total level of agricultural land affected both temporarily and permanently. The Applicant confirmed [REP1-036, Q1.16.1.7] that the total area of agricultural land within the Order limits is 313 hectares (ha). Further, the Applicant noted that of this total amount of land, the level permanently affected is dependent on whether Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) are constructed concurrently or sequentially (19.54 ha) or one project is constructed in-isolation (16.93 ha). As a worst-case 293.46 ha could be temporarily affected, although the Applicant also set out it does not anticipate this being the total area of agricultural land affected.
- 20.4.4. The Applicant emphasised [REP1-036, Q1.16.1.7] that the approximate working easements would be less than the full extent of the Order limits depending on the construction scenario. Furthermore, sections of the route would be constructed by Horizontal Directional Drilling (HDD). Each of these would mitigate the extent of agricultural land temporarily affected by the Project.

ExA's Reasoning

- 20.4.5. The ExA notes that the ES [APP-105, Paragraph 115] finds there would be moderate adverse effects from temporary construction works and permanent moderate adverse effects associated with the loss of BMV agricultural land from the onshore substation. The ExA cannot rely on the Applicant's reassurances that it does not anticipate using the full extent to the Order limits as applied for. In its considerations, the ExA must take account of the adverse effects as possible in the worst-case.
- 20.4.6. Having said that, the ExA is satisfied that the Applicant's embedded mitigation measures, such site selection process and construction method such as HDD would avoid higher grades of BMV to some extent. Additionally, it is also clear [APP-130, Figure 19.4] to the ExA that the vast majority of land in Norfolk are Grades 1-3. On this basis, the ExA finds that the Applicant has minimised impacts on BMV agricultural land as far as possible in accordance with Paragraph 5.10.8 of NPS EN1.

Effects on Individual Businesses

- 20.4.7. The ExA asked [PD-010, Q1.16.1.8] the Applicant to identify how each individual farm/ enterprise would be affected. The Applicant [REP1-036, Q1.16.1.8] set out that it is not possible to meaningfully estimate the amount of land in each holding or therefore the amount of land affected. This was because only affected land titles of landowners, lessees and occupiers whose interest falls within the Order Land would be considered. As such, the Applicant is not aware of the total farm holdings where they include land registered or not registered with Her Majesty's Land Registry outside the Order Land. In addition, the Applicant is not at liberty to oblige such interests to provide information on their overall land holdings, nor would it be reasonable for the Applicant to do so.

- 20.4.8. The National Farmers Union (NFU) and Land Interest Group (LIG) [REP3-136, Q2.16.1.4] disagreed and noted that the Applicant should have an understanding of such matters from the discussions taking place with each landowner. The Applicant responded [REP5-049, Q3.16.1.2] that due to the changeable nature of agriculture it would highlight that it may not be possible to keep abreast of all business changes, especially those outside of the Order limits, on a more regular basis. However, a baseline understanding of the land and holdings has been achieved by the Applicant, which has been taken into account in the consideration of any necessary mitigation measures.
- 20.4.9. On a related matter the operators of Abbey Farm and Home Farm, Weybourne [REP1-172] raised concern that the Proposed Development would prevent access to the farm buildings and have a business-critical impact on farming operations and both farm businesses. The Applicant responded [REP3-101, Q2.16.1.5] that access to the farm and field would be maintained for landowners at all times. Gates may need to be installed for security purposes and if so, they would be fitted with combination locks and the code shared with the landowner. Whilst activities are taking place within that section of the project, additional measures such as a Gateman/ Security Post maybe required. Further, it was noted that the fencing arrangements and access for residents would be agreed with the relevant LA as set out in the OCoCP [REP8-023].
- 20.4.10. More specifically, the Applicant also set out [REP3-101, Q2.16.1.5] that early works access would be taken from ACEW03 [REP5-002] Holgate Road existing access entrance. Having an early works access allows for the majority of the enabling construction works to be carried out from the field outwards, minimising the impact to the local road network. Upon taking access, if required a temporary access road would be laid using bogmats or temporary track mats. Other early works accesses include ACEW05 and ACEW06 Station Road existing access entrances, with all other access obtained through the haul road in the construction corridor. Access for main works construction would be taken from ACC05 Sheringham Road which is an existing access track at the entrance. Access for farming operations would be maintained. The Applicant also identified that a Stakeholder Communications Plan would be developed as part of the final Code of Construction Practice (CoCP).

ExA's Reasoning

- 20.4.11. The ExA acknowledges the difficulties the Applicant has set out in determining the exact effects on each individual business. However, the ExA did not expect the Applicant to research the entire land holding of affected landowners (outside of the Order limits), and only requested an understanding of how they would be affected by the Proposed Development, in terms of quantum of land and effect on business. The ExA is disappointed by the Applicant's reluctance to provide this information.
- 20.4.12. However, the ExA can only conclude on matters before it, which in this case are concerns brought forward by Abbey Farm and Home Farm, Weybourne. In this regard, the ExA is content that there are suitable mitigation measures set out in the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO. It follows, the ExA is satisfied that access can be maintained at all times to the farm buildings to ensure that there would not be any business-critical impacts on farming operations and both farm businesses.

Soils, Drainage and Water Supplies

- 20.4.13. The NFU/ LIG were representing over 60 landowners, including those represented by Savills, Strutt & Parker, Bidwells, Irelands, Brown & Co, Cruso & Wilkin and Clarke & Simpson. It was set out that [RR-057] [EV-019] [EV-023] [REP1-123] they would like to see more information included in the OCoCP in relation to how practical matters on

the ground would be dealt with during and after construction, including: the role of the Agricultural Liaison Officer (ALO), records of condition, biosecurity, irrigation, soil statement, soil treatment, soil aftercare, drainage and water supplies. The NFU/ LIG noted [EV-019] [EV-023] [REP1-122] that the wording that they are asking the Applicant to include in the OCoCP has been agreed on other schemes.

- 20.4.14. NFU/LIG did set out [REP1-123, Q1.6.6.1 and Q1.16.2.2] that there is some good wording included within the OCoCP on how soils would be dealt with, but nothing had been included on soil aftercare. Whilst field drainage, water supplies and the ALO are mentioned in the OCoCP [APP-302], NFU/LIG considered there was not enough detail included for landowners and farmers to know what the Applicant would actually do to remedy field drainage or if there is an incident with a water supply being cut off. It was also noted that the wording it would like to agree has been provided to the Applicant as a Construction Practice Addendum (CPA).
- 20.4.15. The Applicant confirmed [REP1-032] in taking the approach it has, consideration has been given to the balance of information to be provided at this stage in the OCoCP and what should be set out at the detailed design stage. Further [REP1-036, Q1.6.6.1], that details of the management measures to be implemented within subsidiary plans are included within the relevant section of the OCoCP and would form the basis of any subsequent Environmental Management Plans developed by the Principal Contractor.
- 20.4.16. In relation to soil heating, the ExA asked [PD-010, Q1.16.2.1] whether there was evidence to demonstrate whether or not the heating of soil, due to its proximity to the cables, damages the soil quality or harms the yields of crops that may be grown on it (above the cables). The NFU/LIG noted [REP1-123, Q1.16.2.1] that the underground cables crossing farmland from the first Dudgeon scheme show clear evidence that there is heat dissipation when it snows as the snow melts along the strip where the cables are buried. This scheme was approximately 400 megawatts (MW) and the proposed projects combined are approximately 800MW therefore heat dissipation could be greater. It was also noted that there must be a microclimate along the cable corridor and in a drought/heat wave like in 2022 this must have an impact on the crop yield.
- 20.4.17. At this time, the Applicant responded [REP2-040] by setting out that negotiations were taking place with the NFU/ LIG on a CPA. In terms of soil heating, the Applicant noted that the ES [APP-090, Paragraph 287] outlines typical mitigation measures to reduce the effect of heating soils include encasing the ducting with cement bound sand, this is used to ensure that the thermal conductivity of material around the cable is of a known consistent value for the length of the installation.
- 20.4.18. The ExA sought [EV-036] [EV-041] [PD-012, Q2.16.1.1] an update from the Applicant and NFU/LIG about discussions on the CPA. NFU/LIG [EV-036] [EV-041] [REP3-136, Q2.16.1.1] remained of the view that a CPA should be appended to the OCoCP. The Applicant stated [EV-036] [EV-041] [REP3-109] [REP3-101, Q2.16.1.1]:
- 1) It was seeking to strike a balance between the level of detail included in the OCoCP now and what should be included at a later stage when construction methodologies are better understood.
 - 2) It is invested in having a final CoCP which is fit for purpose and can fully control construction effects at the point when construction commences.
 - 3) The Applicant and NFU/LIG met to discuss a draft Statement of Common Ground (SoCG), included soil handling, reinstatement and aftercare, land/field drainage, irrigation and water supply and the roles and responsibilities of the ALO.

- 4) It is in discussions with NFU/LIG regarding providing some assurance on the above aspects by way of a CPA. This would form part of the legally binding Option Agreements between the Applicant and landowners.
- 5) It accepts that options have not yet been signed with landowners but the Applicant was making good progress with these and hopes that they would be concluded shortly.
- 6) It would also be in their interest to include the principles from the CPA in the final CoCP. To secure this, the Applicant proposes to include a line in the SoCGs with LA to confirm the Applicant would incorporate the wording from the CPA into the final CoCP to be submitted for approval under R19 of the dDCO.
- 7) It had no material objections to the proposals put forward by the NFU/LIG but is concerned about the timing of putting high levels of detail into the OCoCP.
- 8) The OCoCP was updated [REP3-064] to include further information on the roles and responsibilities of the ALO in line with what has so far been agreed with NFU/LIG.
- 9) The OCoCP would not include specific detail on the following aspects given its outline nature: soil handling, reinstatement and aftercare; land/field drainage; and irrigation and water supply. With these updates incorporated, it is considered by the Applicant that the OCoCP is sufficient.

20.4.19. Soil heating was discussed further [EV-058] [EV-062], particularly in relation to whether a mechanism for securing thermal resistance mitigation measures to prevent soil overheating was required. The Applicant responded [REP3-101, Q2.16.2.1] by noting that it had carried out a desk-based review of open source literature and there is evidence that heating of soils from radiant energy can damage soil quality, but there is a lack of evidence on how heat generated from high voltage electrical cables would affect soil quality or harm the yields of crops that may be grown on it.

20.4.20. Further, the Applicant set out [REP3-101, Q2.16.2.1] that thermal analyses would be carried out during detailed design that would model the impact of the cables on soil heating and final cable design and burial cross section design would ensure compliance with all applicable standards with respect to soil heating. It was also noted that the OCoCP submitted at Deadline 3 [REP3-064] had been amended to contain reference to thermal analyses being carried out at detailed design within the embedded mitigation section.

20.4.21. The ExA asked [PD-017, Q3.16.1.1] NFU/LIG whether the additions to the OCoCP [REP3-064] went some way to overcoming their concerns. NFU/LIG [REP5-083, Q3.16.1.1] welcomed the additional text with regard to the role of the ALO, but noted some omissions and sought more information on soil heating. Further, it re-emphasised that specific wording should be agreed for field drainage, soil reinstatement and how water supplies including irrigation would be dealt with so that this wording would be carried forward from the OCoCP to the final CoCP. In addition, NFU/LIG were of the view [REP5-083, Q3.16.1.1] that it is very important that the wording is agreed in the OCoCP because its provisions would be incorporated into contracts for the construction of the project. The Applicant [REP5-049, Q3.16.1.1] [REP6-013] reiterated its response to previous discussions.

20.4.22. The ExA noted that the Applicant had committed in the Draft SoCG with the NFU/LIG [REP6-011] that the final agreed wording in the CPA would be included in the final CoCP post consent. The ExA [PD-021, Q4.16.1.1] subsequently, asked the Applicant to provide a revised OCoCP that secures this commitment. Further, the ExA requested [PD-021, Q4.16.1.1] further information be provided with regard to how field drainage and private water supplies would be reinstated and in relation to irrigation. NFU/LIG also set out [REP7-113, Q4.16.1.1] that it was essential that the CPA wording is agreed within the OCoCP because the voluntary agreements have not been finalised and agreed.

20.4.23. In addition to points previously made, the Applicant [REP7-065, Q4.16.1.1] identified that:

- 1) Discussions were actively ongoing.
- 2) The OCoCP had been updated [REP7-037] to contain a commitment to include the final agreed wording within the CPA on soil handling, land/field drainage and irrigation and water supply within the final CoCP.
- 3) Nationally significant infrastructure projects (NSIP) require a range of mitigation measures to be put in place, which are often better detailed in a management plan.
- 4) Management plans that secure mitigation measures need to be able to be applied by the Applicant (and their contractor) across all or part of the development. The nature and level of detail included within them needs to be appropriate for this purpose.
- 5) It is not always possible to provide the level of detail sought by landowners/occupiers. A developer may enter into private agreements on a voluntary basis with landowners/occupiers or other affected parties that provides additional detail. Such an agreement would be legally enforceable by the landowner/occupier against the developer.
- 6) However, it is not the case that the additional detail that might be agreed with an individual landowner/occupier is necessary or appropriate to be included within a management plan.
- 7) At no point during negotiations with NFU/LIG has it been raised that the expectation was for the content of the CPA to be included within the OCoCP. Aspects of the draft CPA that the Applicant considered were appropriate to include within the OCoCP have previously been incorporated. Once agreed, the CPA would be annexed to the legally binding option agreements that would be entered into with landowners. Occupiers of land subject to a voluntary agreement would also benefit from the contents of the CPA. The CPA would be enforceable by landowners directly against the Applicant.
- 8) Given the detail is contained within a draft CPA, a document exists to demonstrate to the ExA and NFU/LIG that measures to suitably manage and mitigate land drainage, water supply and irrigation would be adhered to.
- 9) It can confirm that land drainage surveys of existing drainage systems of the land that would be affected by the construction works are currently ongoing at pre-consent stage. These surveys would inform the pre-construction drainage scheme which would allow drainage to be maintained during construction and it is intended that the ALO would co-ordinate any remaining drainage surveys which have not been undertaken pre application.
- 10) The OCoCP sets out the need for pre and post construction drainage plans would be developed by a qualified drainage specialist.
- 11) R25 of the dDCO secures the need for land used temporarily for construction to be reinstated to its former condition or such a condition as the relevant planning authority may approve.

20.4.24. The matters discussed above all remained unresolved at the end of the Examination [REP8-094].

20.4.25. On a related matter, Interested Parties (IPs) [REP1-158] [REP1-171] [REP1-183] raised concern that NSIP EIA's routinely assume reinstatement best practice is followed but in practice they frequently are not and that due to compaction, disturbance of the soil structure, scarcity of top-soil at re-instatement and the proximity of buried infrastructure there is routinely a permanent reduction in soil fertility and productivity.

20.4.26. The Applicant responded [REP2- 017] [REP3-101, Q2.16.1.6] by setting out that the OCoCP contains control measures to mitigate the potential for soil compaction and

erosion as well as changes to soil drainage during the construction process. Measures would be implemented on site to minimise any effects. Further, a Soil Management Plan would be produced as part of the final CoCP which would define the site-specific mitigation measures and best practice techniques required to be followed by all to protect soil resources and measures would include pre-construction soil surveys which would be undertaken by a suitable and competent soil specialist to identify the physical characteristics of the soils.

ExA's Reasoning

- 20.4.27. The ExA is of the view that striking the right balance in terms of providing sufficient detail in outline plans, that show it is likely that significant adverse effects can be avoided or mitigated, whilst also acknowledging that full details of working practices are not known until detailed design, can be a difficult one.
- 20.4.28. The ExA considers that following the amendments made to the OCoCP during the examination, which included: expanding significantly on the role of the ALO; inserting reference to thermal analyses being carried out at detailed design; and the inclusion of a commitment to include the final agreed wording of the CPA on soil handling, land/field drainage and irrigation and water supply within the final CoCP, the final iteration of the OCoCP [REP8-023] strikes an appropriate balance. The ExA is also mindful that a draft CPA is already in discussion and NFU/LIG has not provided any substantive evidence to demonstrate that suitable measures cannot be secured post-consent through the agreement of wording within the CPA, the wording of which would be set out in the final CoCP, secured by R19 of the rDCO and annexed to the legally binding option agreements that could be entered into with landowners. Whilst the content of the CPA is not before the ExA and it can therefore not be given any weight, the ExA is satisfied that the commitments secured in the final iteration of the OCoCP [REP8-023] are sufficient to ensure there would be no residual significant adverse effect on soils, drainage and water supplies.
- 20.4.29. The ExA notes the concerns about best practice not being followed and acknowledges that issues around compliance can at times be encountered during construction projects. However, the ExA considers that the OCoCP contains suitable measures, in addition to any voluntary agreements, that can be enforced should best practice not be followed as committed to.

Agri-environmental Schemes

- 20.4.30. The ES [APP-113, Paragraph 143] identifies that the primary mitigation relating to Agri-environment schemes would be the avoidance of land parcels that are subject to agreements. It is, however, noted that it has not been possible in some areas of the study area (such as the area of the onshore substation). The ES also sets out that where impacts to an agreement cannot be avoided, the affected landowners and/or occupier would be consulted to enable them to liaise with the Rural Payments Agency and this would include compensation provisions to reimburse a landowner and/or occupiers' financial losses, where appropriate. Furthermore, the ES [APP-113, Paragraph 144] notes that during the operational phase the cable corridor and landfall would be reinstated to their original condition, and it should be possible to manage the land under those schemes again.
- 20.4.31. The ExA asked [EV-020] [EV-024] [PD-010, Q1.16.1.3] the Applicant to explain what work was being done to reach such agreements. The Applicant confirmed [EV-020] [EV-024] [REP1-036, Q1.16.1.3] that landowner agreements are under negotiation and provide for compensation. The Applicant confirmed it hopes these agreements can be completed. If compulsory acquisition powers have to be used, landowners would be compensated under that regime.

- 20.4.32. The ExA also asked [PD-010, Q1.16.1.4] the Applicant to explain how such compensation would be secured in the dDCO. It was set out that if the Proposed Development was to exercise powers of compulsory acquisition under the DCO to acquire land or rights which created an impact on Agri-environment schemes then any affected landowners/occupiers would be entitled to claim compensation for financial losses in the usual way under the principles of the Compensation Code.
- 20.4.33. The NFU/LIG commented on the matter of Agri-environment schemes [REP1-123] and requested that where surveys or the construction works would impact on such schemes it would like to see, as a minimum, landowners and farmers being given no less than 28 days notice.
- 20.4.34. The Applicant disagreed that this was necessary [EV-058] [EV-062] [REP3-101, Q2.16.1.2] and set out [REP2-043] that the inclusion of at least 14 days notice within Article 16(2) of the dDCO is well precedented and in line with other offshore wind farms (OWF) and DCOs. Further, the drafting is not novel in the context and is in line with the equivalent statutory powers under sections 172 to 197 of the Housing and Planning Act 2016 and section 53 of the Planning Act 2008.
- 20.4.35. The NFU/ LIG further set out [REP5-083] whilst it noted the Applicant was not prepared to change the 14 days notice under Article 16, it would like it to be agreed that under the roles of the ALO in the OCoCP it would be stated that the ALO would provide advance early notice for surveys of not less than 28 days so the derogation could be applied for where necessary. The Applicant disagreed [REP5-061, ID8] [REP6-018] that this was necessary. The Applicant also noted [REP8-070] it would continue to liaise with landowners keeping them up to date of land requirement refinements during the construction phase and this commitment is set out within the OCoCP [REP8-023], secured by R19 of the dDCO [REP8-005]. Further, as part of this continued engagement, the Applicant would endeavour to advise landowners of surveys within the landholding at the earliest opportunity. The matter remained in dispute at the end of the Examination [REP8-049, ID8a].

ExA's Reasoning

- 20.4.36. The ExA is satisfied that there are sufficient mechanisms in place to suitably compensate landowners should Agri-environment schemes be impacted by the Proposed Development. Given this and that land would be reinstated to their original condition, the ExA is content that there would be no significant residual adverse effects on Agri-environment schemes.
- 20.4.37. The ExA would encourage the Applicant to provide as much notice as possible to landowners. The final iteration of the OCoCP [REP8-023, Paragraphs 115-119] provides an opportunity this to take place. However, the ExA does acknowledge that a 14 day notice period is a well precedented position and in line with other statutory powers and therefore, the ExA agree with the Applicant that this is an appropriate timeframe to set out in Article 16 of the rDCO.

Link Boxes

- 20.4.38. The NFU/LIG [RR-057] and several other interested parties [too many to list] set out concern over the design and siting of link boxes. It was noted that link boxes stand proud above ground level and due to the number where they can be parallel or staggered greatly interfere with agricultural operations and are a hazard to farm machinery. It was set out that the preference is for link boxes to be located within field boundaries where possible.

- 20.4.39. The ExA [PD-012, Q2.6.2.5] asked the Applicant to provide further details about the design and location of link boxes, including whether the OCoCP should include a commitment to locate them close to field boundaries and in accessible locations, as set out in the ES [APP-090, Paragraphs 301 and 302]. The Applicant provided further details [REP3-102, Appendix A.5] including illustrations of link boxes crossing a ditch and typical link box details. This shows the link boxes themselves would not stand proud of the ground level. Further, the Applicant provided a revised OCoCP [REP3-064] that included additional wording for link boxes, including setting out that where possible, the link boxes would be located close to field boundaries and in accessible locations.
- 20.4.40. The NFU/LIG [REP5-083, Q3.6.2.1] replied by setting out that they now understood that the number and placement would be determined at detailed design and the worst-case needs to be understood so the impact on agricultural operations on a day-to-day basis can be considered. The NFU/LIG also noted that it would also like to understand how the final location of a link box is agreed with a landowner. Further, it was noted that the ALO as part of the OCoCP could consider such matters, but they consider it needs to be stated in the OCoCP that the location of the link boxes would be discussed and agreed with landowners.
- 20.4.41. The Applicant referred to its position in the draft SoCG [REP6-013] that sets out the OCoCP has been amended [REP3-064] to include additional wording on such matters. The Applicant also responded [REP7-065, Q4.6.2.1] by setting out that the ALO responsibilities would include discussing the location of link boxes with landowners and occupiers, however the location of link boxes along the cable corridor is a design issue and it may not be possible to locate them in a location that is preferred by a landowner or occupier. It is therefore not possible for the Applicant to commit to the ALO agreeing the location of link boxes with landowners and occupiers rather than discussing them.
- 20.4.42. At the end of the Examination the concerns of the NFU/LIG remained [REP8-049].

ExA's Reasoning

- 20.4.43. The ExA accepts the Applicant's view that it is not possible to provide more detail on the location of link boxes until detailed design. In terms of the request of the NFU/LIG for it to be set out in the OCoCP that the location of the link boxes would be agreed with landowners, the ExA is persuaded by the Applicant's view that it may not always be possible to locate them in a location that is preferred by a landowner or occupier. Consequently, the ExA considers that to include such a commitment could unreasonably impede or delay delivery of the Proposed Development.
- 20.4.44. The Applicant's proposed amendments to the OCoCP [REP3-064] to include a commitment to locate link boxes close to field boundaries and in accessible locations would go some way to ensure that link boxes would not get in the way.
- 20.4.45. The ExA concludes that the Applicant has provided as much information about link boxes as possible at this stage. Further, the ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO provides adequate commitments to minimise effects from link boxes.

Ground Conditions, Contamination and Minerals

Ground Conditions and Contamination

- 20.4.46. The ES [APP-103] notes that potential areas of contamination cannot be avoided. This includes areas such as the disused airfield at Brandiston, railways lines (both

historical and active) former pits and historic tanks. The ES also identifies that targeted ground investigations may be required.

- 20.4.47. The ExA examined [PD-010, Q1.16.2.5] what options were considered in the optioneering stage to avoid areas of potential contamination and whether the cable corridor width is such that any dense areas of contamination within these areas could be bypassed by micro-siting. The ExA also asked the Environment Agency (EA) and LAs if they were content that targeted ground investigations have not yet been undertaken and would be subject to post-consent processes. In addition, the ExA asked [PD-010, Q1.16.2.7] where mitigation in the form of preconstruction investigations were secured.
- 20.4.48. The Applicant noted [PD-010, Q1.16.2.5] that whilst different options were considered, the option to site the onshore cable through Brandiston Airfield was decided on the basis that the airfield covers a large area, comprises brownfield land and avoids other impacts such as heritage assets. It was also advised that geophysical surveys at the airfield were ongoing, and the initial results indicated that there are areas of rubble present which are likely to be associated with the construction of the airfield. In addition, further surveys would help identify whether any contamination does exist onsite and if so, next steps would include micro-siting the cable and any remedial works.
- 20.4.49. The Applicant confirmed [REP1-036, Q1.16.2.5] that the width of the Order limits would allow for the micro-siting of the cable to avoid, where possible, any dense areas of contamination. The Applicant also set out that the OCoCP [REP1-023, Section 4.1] secures preconstruction investigations.
- 20.4.50. The EA [REP1-111, Q1.16.2.5] set out that targeted ground investigations post consent would be satisfactory and it is unlikely that contamination would be severe enough to prevent the works going ahead. The LAs did not raise any concerns with such an approach.
- 20.4.51. The ExA enquired [PD-012, Q2.16.2.2] whether the full results of such surveys at the airfield would be available during the Examination. The Applicant responded [REP3-101, Q2.16.2.2] by setting out that whilst some early geophysical surveys have commenced, these are required to support the detailed design phase and micro-siting of the cable. The survey campaign is ongoing, and the results were unlikely to be available prior to close of the Examination.
- 20.4.52. On a related matter, the Applicant put forward a new Requirement in the dDCO [REP3-009] to cover matters associated with pre-commencement remedial work in respect of any ground contamination or other adverse ground conditions that might be encountered. It requires a scheme to deal with the contamination of any land (including groundwater) to be submitted to and approved by the relevant LA, in consultation with the EA. Having considered the addition, the ExA did not ask any further questions.

ExA's Reasoning

- 20.4.53. The ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO and the addition of R32 in the rDCO ensures that there is suitable mitigation in place to prevent any significant adverse effects from ground conditions and contamination.

Minerals

- 20.4.54. The ES [APP-103] notes that the Proposed Development has the potential to sterilise the resources present within the narrow onshore cable corridor during construction and in all cases, where the onshore cable corridor intersects an MSGA. It also notes that only part of each protected area would be impacted. The ExA examined [PD-010, Q1.16.2.9] whether the presence of the cable could affect the viability of wider areas to be feasibly worked, sterilising needed resource for many years.
- 20.4.55. Furthermore, the ES [APP-103] notes that mitigation measures would include consultation with NCC Mineral Planning Authority regarding the practicality and viability of extraction of mineral resources present within the works footprint and the production of a Mineral Resource Assessment where necessary. The ExA asked [PD-010, Q1.16.2.10] the Applicant how this would be secured.
- 20.4.56. The Applicant replied [REP1-036, Q1.16.2.9] by setting out that restrictions would be in place in relation to extraction works within the permanent easement of the onshore cable. The permanent easement would be 10m wide along the entire cable corridor if SEP and DEP are constructed in-isolation and 20m wide if they are constructed concurrently or sequentially. Outside of the permanent easement, extraction of identified resources would not be restricted. The Applicant also revised the OCoCP [REP1-023] to include the mitigation set out in the ES.

ExA's Reasoning

- 20.4.57. The ExA is satisfied that following the Applicant's amendment to the OCoCP [REP8-023] that the Proposed Development would not have any significant adverse effects on mineral safeguarded areas, in accordance with Paragraph 5.10.22 of NPS EN1. In drawing its conclusion, The ExA has also taken on board that NCC in its capacity as the Mineral Planning Authority did not object to the Proposed Development [REP1-080].

20.5. CONCLUSIONS

- 20.5.1. The ExA is satisfied that the Applicant's embedded mitigation measures, such as the site selection process and construction methods that include the use of HDD, would avoid higher grades of BMV to some extent. Additionally, it is also clear [APP-130, Figure 19.4] to the ExA that the vast majority of land in Norfolk are Grades 1-3. On this basis, the ExA finds that the Applicant has minimised impacts on BMV agricultural land as far as possible in accordance with Paragraph 5.10.8 of NPS EN1.
- 20.5.2. For the reasons given by the Applicant, the ExA acknowledges the difficulty in researching the entire land holding of affected landowners (outside of the Order limits) and therefore ascertaining the exact effects of the Proposed Development on every individual business. In terms of effects on Abbey Farm and Home Farm, Weybourne the ExA is satisfied that access can be maintained at all times to the farm buildings to ensure that there would not be any business-critical impacts on farming operations and both farm businesses. Suitable measures are set out in the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO to ensure this would be the case.
- 20.5.3. The ExA is content that the final iteration of the OCoCP [REP8-023] is sufficient to ensure there would be no significant adverse effect on soils, drainage and water supplies.
- 20.5.4. The ExA is of the view that there are sufficient mechanisms in place to suitably compensate landowners should Agri-environment schemes be impacted by the Proposed Development. Given this and that land would be reinstated to their original condition, the ExA concludes that there would be no significant residual adverse

effects on Agri-environment schemes. Further, the ExA considers that 14 days is an appropriate timeframe to set out in Article 16 of the rDCO.

- 20.5.5. The ExA concludes that the Applicant has provided as much information about link boxes as possible at this stage. Further, the ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO provides adequate commitments to minimise effects from link boxes.
- 20.5.6. The ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO and the addition of R32 in the rDCO ensures that there is suitable mitigation in place to prevent any significant adverse effects from ground conditions and contamination.
- 20.5.7. The ExA is content that following the Applicant's amendment to the OCoCP that the Proposed Development would not have any significant adverse effects on MSGAs, in accordance with Paragraph 5.10.22 of NPS EN1.
- 20.5.8. The ExA concludes that the Proposed Development is in accordance with Section 5.10 of NPS EN1 as far as the matters discussed in this Chapter relate.
- 20.5.9. Notwithstanding this, the ExA notes that the ES [APP-105] finds that there would be moderate adverse effects from temporary construction works along the cable corridor and permanent moderate adverse effects associated with the loss of BMV agricultural land from the onshore substation. Whilst the ExA accepts that the loss BMV agricultural land cannot be totally avoided, a large amount would be temporarily affected (worst-case 293.46 hectares), including lost permanently at the onshore substation (worst-case 19.54 hectares).
- 20.5.10. Further, and as set out above, the ES [APP-105] finds that there would likely be minor residual adverse effects for numerous other matters both during construction and operation. Whilst in each case, the ExA has found that minor adverse effects would occur, it is quite likely that many landowners would be affected by more than one adverse effect at the same time.
- 20.5.11. For the above reasons, the ExA concludes that Land Use effects carry a moderate level of weight against the making of the Order for all Development Scenarios.

21. HABITATS AND ECOLOGY – ONSHORE

21.1. BACKGROUND AND POLICY CONTEXT

21.1.1. Habitats and Ecology (onshore) was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on European Designated Sites and Sites of Special Scientific Interest (SSSI) and the species / features therein, effects on protected and priority species, effects on woodland, trees and hedgerows and effects on rivers and river-based wildlife.

National Policy Statement (NPS)

21.1.2. The Overarching National Policy Statement for Energy (NPS EN1) sets out policy considerations that are of relevance to onshore ecology, with the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) relating principally to offshore ecology and biodiversity and deferring to NPS EN1 in all other respects. In terms of the assessment of habitats and ecology, NPS EN1 policy requires from the Applicant:

- an Environmental Statement (ES) that sets out clearly any effects on internationally, nationally and locally designated sites of ecological or geological importance, on protected species and on habitats and other species identified as being principal importance for the conservation of habitats (NPS EN1, Paragraph 5.3.3);
- a demonstration of how the project has taken advantage of opportunities to conserve and enhance biodiversity conservation interests (NPS EN1, Paragraph 5.3.4);
- a demonstration that, during construction and operation, best practice will be followed to ensure the risk of disturbance or damage to species or habitats is minimised (NPS EN1, Paragraph 5.3.18); and
- where the Applicant cannot demonstrate that appropriate mitigation measures will be put in place the decision maker should consider what appropriate requirements should be attached to any consent and/or planning obligations entered into (NPS EN1, Paragraph 5.3.19).

21.1.3. In reaching a decision, the Secretary of State (SoS) should take into account:

- The benefits of nationally significant low carbon energy infrastructure development may include benefits for biodiversity and geological conservation interests and these benefits may outweigh harm to these interests (NPS EN1, Paragraph 5.3.6).
- If the Proposed Development avoids significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives, or provides appropriate compensation measures (NPS EN1, Paragraph 5.3.7).
- Guidance on mitigating bird loss associated with power lines, as well as guidance which states that, due to their linear nature, electricity networks infrastructure provides excellent opportunities to reconnect important habitats via green corridors, biodiversity stepping zones and re-establishment of hedgerows. (NPS EN5, paragraph 2.4.1)

Other Legislation and Policies

21.1.4. Other legislation, policies and guidance relevant to Biodiversity are set out in the ES [APP-106, Paragraph 20.4,1]. Wider policy and legislative context is also provided in the ES [APP-088] [APP-285, Section 5] and in Chapter 3 of this Recommendation Report.

21.2. THE APPLICATION

Environmental Statement

21.2.1. The Applicant's ES Chapter 20, Onshore Ecology and Ornithology [APP-106] contains an overview of the existing environment for the proposed onshore development area, followed by an assessment of the potential impacts and associated mitigation for the construction, operation, and decommissioning phases of the Proposed Development. It is supported by technical reports and appendices giving further detail in the form of habitat, species and arboricultural reports and plans including, though not limited to, the following:

- Onshore Ecology and Ornithology Figures [APP-132].
- Extended Phase 1 Habitat Survey [APP-214].
- Great Crested Newt Survey Report [APP-215].
- Bat Activity Survey Report [APP-216].
- Wintering Birds Survey Report [APP-217].
- Breeding Birds Survey Report [APP-218].
- Onshore Ecology Desk Study [APP-220].

21.2.2. Cumulative effects on onshore ecology and ornithology from an Environmental Impact Assessment (EIA) perspective are covered within ES Chapter 20 [APP-106].

21.2.3. A proportion of information relating to onshore ecology and biodiversity is contained with the suite of documents prepared for the Applicant's Habitats Regulation Assessment (HRA) [APP-059]. Consequently, there is a degree of overlap between the issues covered in this Chapter and within Chapter 26 of this Recommendation Report. Both should read in conjunction with each other.

Scope and Methodology

21.2.4. The Applicant has identified a series of potential impacts on onshore ecology and ornithology and set these out within the ES [APP-106, Section 20.6]. It has categorised these potential impacts in terms of whether they are construction stage impacts, operational phase impacts or decommissioning phase impacts.

21.2.5. The Applicant has concluded that all impacts identified in the ES in relation to onshore ecology and ornithology would have the potential to act cumulatively with other projects [APP-106, Section 20.7.1]. In screening for other plans, projects and activities that could result in cumulative impacts for its Cumulative Effects Assessment (CEA), the Applicant identified the following projects:

- Norfolk Vanguard Offshore Wind Farm (OWF).
- Hornsea Project Three OWF.
- Norfolk Boreas OWF.
- Norwich Northern Distributor Road
- A47 North Tuddenham to Easton.
- Proposed Norwich Western Link Road.
- Improvement of the Thickthorn A11/A47 junction.
- East Anglia GREEN.

21.2.6. The Applicant identified a series of different study areas for different receptors depending on the sensitivity and habitat preference of those receptors. The selection criteria for the study areas are set out and summarised by the Applicant in the ES [APP-106, Section 20.4, Table 20-2].

21.2.7. The Applicant consulted in a regular and formalised manner with members of Expert Topic Groups (ETGs), which were established to follow the majority of topics covered

by the EIA and HRA. The ETGs comprised experts from relevant statutory and non-statutory bodies and one of their primary functions was to agree the relevance, appropriateness and sufficiency of baseline data for the more specific assessments which are detailed within the ES.

- 21.2.8. The ETG members for the topic areas identified by the Applicant are set out in its Consultation Report [APP-029]. Study areas relating to Onshore Ecology and Ornithology were agreed in final Statements of Common Ground (SoCGs) with Natural England (NE) [REP8-031], North Norfolk District Council (NNDC) [REP8-045], South Norfolk Council (SNC) [REP7-041] and Broadland District Council (BDC) [REP7-042]. Other members of the ETG deferred comment to other relevant members or did not cover this topic within their SoCGs.

Applicant's Assessment of Effects and Proposed Mitigation

- 21.2.9. The Applicant's proposed embedded mitigation that is common across the Proposed Development is summarised in the ES [APP-090].
- 21.2.10. Embedded mitigation specific to Onshore Ecology and Ornithology are described by the Applicant in the ES [APP-106, Section 20.3.3]. For both designated nature conservation sites and for woodland and hedgerows, the Applicant has undertaken a route refinement process to avoid all designated sites and habitats wherever possible within the Order limits. For watercourse crossings the Applicant has identified the need to cross all main rivers and Internal Drainage Board maintained ordinary watercourses using trenchless drilling techniques such as Horizontal Directional Drilling (HDD).
- 21.2.11. Additional Mitigation specific to the potential impacts identified during the construction phase is described by the Applicant in the ES [APP-106, Section 20.6.1]. The Applicant has not proposed any specific mitigation related to operational effects as it has only identified negligible effects related to regular scheduled maintenance requirements. The Applicant has assessed effects related to decommissioning work at the end of the Proposed Development's lifecycle as no worse than those which would occur during the construction stage but has not proposed any specific mitigation related to these works as part of its application.
- 21.2.12. The mitigation is contained within and spread across a number of proposed management plans including the Outline Code of Construction Practice (OCoCP) [APP-302], the Outline Landscape Management Plan (OLMP) [APP-303], the Outline Ecological Management Plan (OEMP) [APP-304] and the Outline Biodiversity Net Gain Strategy (OBNGS) [APP-306]. These plans are secured within the draft Development Consent Order (DCO) [REP8-005] under Requirement (R)10, R11, R12, R13, R19 and R23.
- 21.2.13. The Applicant has concluded in the ES that the residual adverse effects of the Proposed Development on habitats and ecology would be negligible or minor adverse at the landfall location, along the onshore cable corridor and at the onshore substation site. There are specific sites and scenarios where multiple possible outcomes are possible, but the Applicant does not assess the residual impact in any of these cases as worse than minor adverse in any case. Further clarification is set out by the Applicant in its summary [APP-106, Table 20-19].
- 21.2.14. The Applicant has assessed [APP-106, Section 20.7.3.1] that the magnitude and significance of impacts on Designated Nature Conservation Sites could be elevated due to cumulative impacts, but that given the overall predicted low magnitudes and significance of residual impacts for the Proposed Development, likelihood for cumulative impacts is low.

- 21.2.15. The Applicant has assessed [APP-106, Section 20.7.3.2] that there is potential for cumulative impacts on habitats which are widespread within the DCO order limits and elsewhere in the surrounding landscape, such as arable fields and margins, hedgerows, woodland and watercourses.
- 21.2.16. Within the same section of its ES, the Applicant notes that the construction footprint of the Proposed Development is principally located within habitats which are replaceable or recoverable, such as arable farmland, scrub and improved grasslands. The Applicant has concluded that other developments impacting these types of habitats would be unlikely to lead to cumulative impacts in combination with the Proposed Development as it would generally be possible for residual impacts to be avoided or comprehensively mitigated at an individual project level.
- 21.2.17. The Applicant has assessed [APP-106, Section 20.7.3.3] that there would be potential for cumulative impacts on multiple protected and other priority species. In particular, there would be potential for cumulative impacts on those species which are widespread within the Order limits and elsewhere in the surrounding landscape, which may include badgers, bats (roosting and non-roosting), breeding birds, over-wintering birds, GCN, reptiles, riparian mammals, white-clawed crayfish and other priority species such as hedgehog, brown hare and common toad. Such impacts could include, but not limited to, the loss/fragmentation of habitat, indirect impacts from lighting, noise and/or dust. However, the Applicant notes that each individual project identified would include mitigation measures for such potential impacts and does not, therefore, consider that additional mitigation measures would be required to address potential cumulative impacts.

21.3. LOCAL IMPACT REPORTS (LIR)

Broadland District Council and South Norfolk Council

- 21.3.1. In their LIRs, both BDC [REP1-066] and SNC [REP1-090] agree that the scope for terrestrial ecological surveys has been agreed and surveys of 90% of the route were undertaken between 2020-2021 by suitably qualified and experienced ecologists in line with best practice guidelines. SNC also encourages the Applicant to update its desk top study to align with the recently updated County Wildlife Sites.
- 21.3.2. Both BDC and SNC encourage the Applicant, in the event that development consent is granted, to explore further opportunities than currently proposed to avoid and minimise impacts in partnership with other schemes in the area as these schemes develop and are delivered.
- 21.3.3. BDC and SNC both advise that consideration should be given to the use of moveable 'hedges' which could be placed within hedge gaps at night and removed the following day, to provide for continued connectivity of hedgerows.
- 21.3.4. BDC and SNC have both noted the potential for impact on Pink Footed Geese (PFG) resulting from the Applicant's proposed cable routes which have the potential to compromise post-harvest cereal stubs, sugar beet tops etc. They advise that a PFG management plan should be a requirement of any consent and that such a plan should set out a clear understanding of impacts and protection needs during the winter months when vegetation removal for the development would be most likely to happen.
- 21.3.5. Nevertheless, both BDC and SNC acknowledge that with mitigation in place, the Proposed Development would have negligible or minor adverse impacts in ecological receptors and that the Applicant's ES has addressed inter-relationships between ecology, water, air, noise and vibration.

North Norfolk District Council

- 21.3.6. In its LIR [REP1-082], NNDC notes that pre-construction surveys would be likely to be required for some species and that the results of these surveys should be used to identify any amendments to proposed mitigation within the OEMP and/or licensing requirements necessary. NNDC confirmed that they are broadly supportive of R13 in the dDCO and the Ecological Management Plan subject to agreement to the final outline Ecological Management Plan (EMP) document which underpins the requirement and which, it understands, should ensure key ecological objectives are met.

Norfolk County Council

- 21.3.7. The LIR submitted by NCC [REP1-080] defers detailed commentary on this topic to relevant District Councils. Nevertheless, NCC acknowledge that it is satisfied that the Applicant's Onshore Ecology and Ornithology chapter has been informed by adequate habitat and species surveys and data analysis and welcomes the embedded mitigation proposed by the Applicant [APP-282] and also note that additional mitigation measures will need to be secured within the dDCO.
- 21.3.8. It is NCC's view that the outline EMP is fit for purpose, but it notes that submission of a final EMP is secured by R13 of the dDCO and that this should include details of all updated and pre-commencement surveys as necessary. NCC also notes that an associated Construction Environmental Management Plan (CEMP) will also be required to be submitted.
- 21.3.9. There are no substantive comments relating to Habitats and Ecology – onshore in any of the other submitted LIRs.

21.4. THE EXAMINATION

- 21.4.1. The matters discussed below relate to EIA process and the EIA-based conclusions drawn by the Applicant.
- 21.4.2. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on are:
- 1) mitigation of possible effects during works associated with waterway crossings;
 - 2) proposed mitigation measures for wintering birds; and
 - 3) impacts on protected species connected to Wensum Woods.

Mitigation of possible effects during works associated with waterway crossings

- 21.4.3. NE [RR-063] raised two concerns: first, regarding the potential for impacts to white-clawed crayfish and invertebrate species as a result of HDD methods and the associated potential for HDD bentonite breakout. NE advised that the Applicant should include a commitment to use best available techniques and that a precautionary methodology and suitable emergency plan in the event of bentonite breakout should also be put in place. NE further noted that the Applicant would be required to report any bentonite breakouts within designated sites within 24 hours and before clean-up operations were commenced.
- 21.4.4. NE's second concern was about the importance of the River Wensum and Alderford Common as commuting and foraging areas for several species of bat, including barbastelle. It pointed out that crossing techniques were not confirmed for areas closest to Alderford Common and that as a result there could be potential impacts to

important foraging and core sustenance zones for important colonies of bats. As a result of this perceived gap in data, NE advised [RR-063, Appendix I] that pre-construction surveys for bats should be undertaken between Attlebridge and the proposed main construction compound at Swannington in order to establish if the undecided crossing locations near to Alderford Common are important foraging routes for bats.

- 21.4.5. The Applicant [REP1-033] confirmed that an impact assessment of the potential effects upon the River Wensum from bentonite breakout was described in its ES [APP-106, Section 20.6.1.1]. In addition, the Applicant accepted a recommendation to include Invasive Non-Native Species mitigation measures within a final bentonite breakout mitigation plan and undertook to develop such a plan and include it with the final Code of Construction Practice (CoCP) for the Proposed Development.
- 21.4.6. The Applicant confirmed [REP1-033] that the production of a final CoCP was secured within R19 of the dDCO and also noted that an outline bentonite breakout mitigation plan was described in its OCoCP (Revision B) [REP1-023].
- 21.4.7. The Applicant also accepted NE's suggestions for additional mitigation measures in relation to the River Wensum floodplain and pointed to the inclusion of a note to this effect in its OCoCP (Revision B) [REP1-023, Section 4.1).
- 21.4.8. Regarding the concerns raised in relating to the commuting and foraging areas for barbastelle bats, the Applicant noted [REP1-033] that further surveys of potential connective features which would be at risk of being temporarily severed during construction (e.g. due to open cut crossings of hedgerows/tree-lines) close to Alderford Common would be completed as part of any pre-construction surveys and would inform any necessary mitigation measures. The Applicant clarified that ecology data on barbastelle bat roosting and activity around the area provisionally referred to as Wensum Woods was anticipated to be available prior to commencement of pre-construction bat surveys and that this data would be used to inform the scope of such surveys. The ExA notes that approval of these survey results by the relevant Local Authority (LA) and NE is within R13 of the dDCO [REP8-005].
- 21.4.9. The Applicant clarified that the bat survey data gap between Attlebridge and Swannington applied to an area of entirely arable habitat with field boundary hedgerows. The Applicant confirmed that once the crossing schedule of these field boundary hedgerows was defined, further bat surveys would be completed on any features of potential importance that are targeted for potential open-cut installation. Mitigation, as set out in the outline Ecological Management Plan (OEMP) and secured within R13 of the dDCO [REP8-005] would then be applied to any hedgerows or other connective features which might be found to be important for bat connectivity.
- 21.4.10. The ExA observed that many of the watercourses to be crossed by the Proposed Development attracted conservation interest for being chalk-based rivers or streams. The rivers Wensum, Tud, Tiffey, and Yare are all identified as being part of a chalk-based watercourse system in the area, for which the Applicant had proposed to cross using HDD methods to a depth of 2 metres (m) under the riverbed. Additionally, the River Wensum is designated as Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI) The ExA queried [PD-010, Q1.13.4.2] whether this was an appropriate depth to protect both the river integrity and the aquatic wildlife therein, to which the Applicant replied that drill profiles had been produced at a minimum of 10m below the riverbed for the aforementioned rivers to avoid adverse impacts [REP1-036, Q1.13.4.2].

- 21.4.11. Possible effects on features of the river Wensum SAC are discussed in greater detail within Chapter 26 of this Recommendation Report. The effects on features discussed in that section also apply to features of the SSSI.
- 21.4.12. The Applicant submitted further information in its Report to Inform the Appropriate Assessment (RIAA) (onshore) Technical Note [REP2-050] and Addendum to ES Chapter 20 [REP2-053]. These documents were welcomed by NE with the observation [REP3-145] that it was content that, with inclusion of the mitigation measures in relation to sediment management, pollution prevention and bentonite breakout identified in the RIAA Technical Note [REP2-050], the risk of an adverse effect on the integrity (AEol) on the River Wensum SAC / SSSI could be sufficiently reduced. In addition, NE advised the Applicant to submit its proposed mitigation measures as outline plans into examination and appropriately secure their proposed mitigation within the outline CoCP, the outline EMP and dDCO.
- 21.4.13. The Applicant responded [REP4-031] that its OCoCP (Revision D) contained mitigation measures for sediments management, pollution prevention and bentonite breakout (section 7.1.4), all of which would be secured by R19 of the dDCO..
- 21.4.14. The ExA noted that during the early stages of the examination, the Applicant had concluded in its RIAA (onshore) Technical Note [REP2-050] that, taking account of the mitigation measures proposed within its OEMP [REP1-027] and CoCP documents, there would be no AEol for the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC./ SSSI.
- 21.4.15. NE observed [REP3-147] that it would be likely to reach agreement with the Applicant's conclusion that an AEol could be ruled out in respect of all affected onshore environmental assets, provided that mitigation was agreed and secured.
- 21.4.16. At the time of issuing its Report on the Implications for European Sites (RIES) [PD-020], the ExA noted that this matter remained as not-agreed and asked further questions of NE in order to establish whether information submitted by the Applicant in the form of revisions to its outline EMP and CoCP provided NE with sufficient information to agree the status of AEol on the River Wensum SAC.
- 21.4.17. NE responded [REP7-111]. that it had concerns with the Applicant's proposed bentonite mitigation measures as described in its OCoCP [REP5-030], including the use of sand bags and to pump bentonite back to a lagoon would only be workable in drier conditions and would therefore not be applicable to all situations within the River Wensum SAC. NE also reiterated their view that outline mitigation measures should be included as separate plans as part of the consenting phase of the Proposed Development.
- 21.4.18. NE made it clear that until an outline bentonite mitigation plan was agreed, it would be unable to conclude with certainty that the likelihood of AEol to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC/ SSSI could be avoided.
- 21.4.19. Notwithstanding this, NE advised further that once the mitigation measures were agreed, NE would be likely to agree that the risk of AEol to the River Wensum SAC / SSSI would be significantly reduced. Additionally, NE confirmed that it wished to be named, alongside the EA, as a consultee to the Applicant's outline bentonite mitigation plan.
- 21.4.20. Prior to the close of the Examination, the ExA asked the Applicant for a means [PD-022] to secure sufficient mitigation procedures prior to the commencement of any works relating to the Proposed Development which could be agreed with NE and

other relevant stakeholders. The ExA asked the Applicant and NE to propose without prejudice wording for a Requirement within the dDCO which would secure mitigation that removes or reduces the risk of AEol to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC/ SSSI.

- 21.4.21. NE responded at the close of Examination to set out its position that it considered it to be outside of its remit to formulate wording for DCOs [REP8-108] and reiterated its concerns that it could not rule out AEol for the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC/ SSSI.
- 21.4.22. The Applicant responded [REP8-052] that it considered that mitigation measures had already been sufficiently secured within documents submitted to the Examination which removed the risk of AEol to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC/ SSSI. It noted that its OCoCP (Revision G) [REP8-023] contained mitigation measures for bentonite breakout. In addition, the Applicant has added wording to the OCoCP which requires that any bentonite breakout within designated sites be reported to NE as soon as possible and, in any event, within 24 hours.
- 21.4.23. The Applicant further clarified that R19 of the dDCO (Revision K) [REP8-005, Sub-paragraph 19.1] established NE as a named consultee. In addition, it noted that R19(3) confirms that all construction works for each phase must be undertaken in accordance with the relevant approved CoCP. It is the Applicant's position at the close of Examination, therefore, that the CoCP is the appropriate mechanism to secure the mitigations required. The Applicant made reference to a number of consented Offshore Wind Farm projects as precedents for this approach, noting that Hornsea Four Offshore Wind Farm Order (2023), Norfolk Boreas Offshore Wind Farm Order (2021), and The Hornsea Three Offshore Wind Farm Order (2020) do not include stand-alone plans for bentonite breakout.
- 21.4.24. The Applicant's and NE's responses at deadline 8 – the final deadline in the Examination – [REP8-052] and [REP8-108] respectively represented the final submissions from parties on this matter before the close of the Examination

ExA's Reasoning

- 21.4.25. In relation to bat commuting routes along watercourses, the ExA is reassured that there is a robust process and procedure for undertaking such surveys and reporting the results to NE in advance of any pre-commencement works, including site clearance works, via the submission of EMPs under R13 of the dDCO. Should development consent be granted, the Applicant has demonstrated that opportunity exists for further specific mitigation to be adopted following pre-construction surveys. As a result, the ExA considers that the Applicant has assessed the potential effects on bats within its ES and has an informed mitigation strategy.
- 21.4.26. The ExA notes that a number of watercourses would be crossed by the Proposed Development and, whilst trenching may be used for ordinary watercourses, HDD or equivalent trenchless technique would be adopted to avoid direct impacts on aquatic wildlife when crossing the River Wensum SAC / SSSI. The ExA is reassured by the Applicant's response [REP1-036, Q1.13.4.2] that consideration has been given to the depth of HDD underneath the river channels to minimise the effects on aquatic wildlife.
- 21.4.27. The ExA recognises the concerns regarding bentonite breakout, particularly in the River Wensum SAC / SSSI, where numerous protected features could be jeopardised if suitable mitigation measures were not put in place. However, the ExA is reassured that the Applicant is proposing to control this risk in an industry standard manner. The

ExA also notes that the proposed method is the same as other made DCOs. The production of a bentonite breakout plan is contained within the suite of management plans secured in the rDCO and, to that end, the ExA do not see the need to impose a further or separate requirement for such a plan to be submitted.

- 21.4.28. On the basis of the aforementioned factors, the ExA concludes that the Applicant has given adequate consideration to its package of mitigation measures and has secured them appropriately in the dDCO. Should development consent be granted, the ExA has confidence that pre-construction and pre-commencement surveys would ensure an informed approach to post-consent mitigation. Further consideration of the River Wensum SAC from a HRA perspective is contained in Chapter 26 of this Recommendation Report.

Proposed mitigation measures for wintering birds

- 21.4.29. NE, [RR-063] highlighted that it was developing standard advice for mitigation measures to be adopted related to PFG and overwintering birds. The purpose of this standard advice would be to mitigate disturbance impacts to features of the North Norfolk Coast (NNC) SPA. NE advised that it would work with the Applicant to have this advice secured within the dDCO.
- 21.4.30. The Applicant [REP1-033] pointed to its findings within the ES [APP-106, Section 2.3.8] which identified that direct or indirect impacts to PFG are unlikely to occur. The Applicant further noted that wintering bird surveys carried in 2019-2020 and 2020-2021 survey periods recorded no PFG within the Order limits of the Proposed Development. The Applicants current provisions for mitigation for PFG have been outlined within its OEMP (Revision B) [REP1-027].
- 21.4.31. The ExA questioned [PD-010, Q1.13.2.6] whether Interested Parties (IPs) had any fundamental concerns regarding PFG which would warrant either further information, or a mitigation plan being submitted during the Examination, NE responded [REP1-139]. that changes to the production and processing of sugar beet crops have resulted in less unharvested remains of what has traditionally been a nutritious foraging resource for the PFG population. Without these resources to feed on, NE note that geese are attracted to areas of autumn and winter sown crops, which can in turn lead to agricultural damage.
- 21.4.32. NE also point to anecdotal evidence that there are fewer geese present in Norfolk for a shorter proportion of the winter months, whilst also having been observed in other parts of the United Kingdom (UK) where they would not typically be reported, which it cites as a cause for concern. NE has proposed that the effects of a reduced foraging resource should represent the baseline against which development effects should be considered and it has encouraged a standard approach for NSIP potentially impacting the NNC SPA PFG in undertaking mitigation measures. NE suggest that the simplest and most effective mitigation measures currently available would be supplementary feeding and that such a measure should be implemented irrespective of PFG displacement.
- 21.4.33. NE further advised that in order to exclude AEoI beyond reasonable scientific doubt, given the relative sensitivity of PFG to the loss of foraging resource, it would be acceptable for a mitigation scheme to be conditioned, with the precise detail to be developed post-consent. NE advised that a mitigation scheme could be developed in parallel with its own work in relation to this issue (including liaison with landowners).
- 21.4.34. The ExA asked the Applicant and NE for a concluding statement which fully summarises the progress made on agreeing a PFG management plan [PD-021, Q4.14.1.12]. The Applicant responded [REP7-065] that it had been involved in

ongoing discussions with NE to agree a PFG mitigation approach. It noted that in its view, one of the mitigation approaches may be suitable but that it does not view this approach as being sufficiently developed for the Applicant to include commitment to it within the dDCO. Instead, the Applicant proposed a refined iteration of NE's preferred mitigation approach. While the Applicant noted that discussions between it and NE were ongoing, it conceded that there would not be sufficient time remaining in the Examination for it to reach an agreement on the approach to mitigation for PFG with NE.

- 21.4.35. NE responded [REP7-112] to confirm that it was unable to provide the decision maker the necessary comfort that appropriate mitigation measures will (and can) be adopted to remove or suitably reduce the risk of the likelihood of AEoI to the PFG feature of the NNC SPA and Ramsar. In addition, NE advised that a requirement should be added to the dDCO which would ensure that until the PFG mitigation measures are agreed, no works related to the Proposed Development could commence.
- 21.4.36. The ExA requested [PD-022] that both the Applicant and NE provide their preferred without prejudice wording for a Requirement within the dDCO which would secure mitigation that removes or reduces the risk of AEoI to the PFG feature of the North Norfolk Coast SPA and Ramsar site.
- 21.4.37. NE responded [REP8-108] noting that it had advised the Applicant, via mail on 13 July 2023, that a generic Requirement should be included within the dDCO securing that a standalone PFG mitigation plan will be submitted to the LA for agreement with the relevant Statutory Nature Conservation Bodies at least four months prior to any onshore works commencing. NE set out additional advice [REP8-106], summarising its position in relation to PFG and its reasoning for this position. At the close of the Examination, NE was unable to state beyond reasonable scientific doubt that the mitigation measures for PFG proposed by the Applicant would be suitable reduce the risk of AEoI to the PFG feature of the NNC SPA and Ramsar site in combination with other plans or projects.
- 21.4.38. The Applicant also responded [REP8-052, Table 2, ID5] that it had adequately secured mitigation for PFG within the OEMP [REP7-039] and a standalone Requirement would duplicate controls that exist elsewhere and it would be unnecessary and unreasonable to impose such a Requirement.
- 21.4.39. Notwithstanding this, the Applicant provided without prejudice drafting for a requirement relating to the mitigation of effects on PFG. The wording, as given context in [REP8-052, Table 2, ID5], was proposed as follows:

“(1) No phase of the of the onshore works within 10.4km of the North Norfolk Coast Special Protection Area may commence until a scheme for protection and mitigation measures for pink footed geese has been submitted to and approved by the relevant planning authority in consultation with NE.

(2) The scheme of protection and mitigation measures submitted for approval under sub-paragraph (1) must include- (a) details of pre-construction surveys to be undertaken to establish whether any pink footed geese are present on any of the land affected, or likely to be affected, by that phase of the onshore work; (b) details of ongoing monitoring to be undertaken during the phase of the onshore work; and details of the mitigation measures to be undertaken if the pre-construction or ongoing monitoring identifies the presence of pink footed geese in any of the land affected, or likely to be affected, by that phase of the onshore work.

(3) The relevant phase of the onshore works must be carried out in accordance with any scheme approved under sub-paragraph (1). (4) Sub-paragraph (1) does not apply if the relevant planning authority confirms, after consultation with the Natural England, that no scheme of protection and mitigation measures for pink footed geese is required for the relevant phase of the of the onshore works”.

21.4.40. The Applicant also requested that if the ExA was minded to impose requirement relating to PFG with an alternative wording to that proposed by it, that it be consulted on that proposed drafting.

21.4.41. At the close of the Examination, this matter remained unresolved between the parties.

ExA's Reasoning

21.4.42. The implications from a HRA perspective are detailed in Chapter 26 of this Recommendation Report.

21.4.43. The ExA notes that the need for mitigation to protect PFG is stressed within the LIRs submitted by two LAs, and this matter was a concern from the start of the Examination. That, together with NE's emphasis on following standard and best practice guidance in order to reduce the impacts to a point where an AEoI could be ruled out, highlights the importance of the PFG to the NNC SPA. To this extent, the ExA expresses disappointment that meaningful progress towards a resolution of this issue was not taken within the Examination timeframe.

21.4.44. The ExA is concerned that NE has not endorsed the Applicant's bespoke mitigation approach at any level. With the Applicant seeking to adopt a non-standard approach to PFG mitigation, the ExA is not content that the timing or presentation of the mitigation, taking the Applicant's current position, would be sufficiently secured in the dDCO.

21.4.45. On this basis, the ExA concludes that a provision is required in the rDCO to properly secure PFG mitigation prior to the commencement of the Proposed Development. and proposes the following changes to the Applicant's wording for sub-paragraph 1 of the additional requirement:

21.4.46. *(1) No phase of the onshore works within **20km** ~~40.4km~~ of the North Norfolk Coast Special Protection Area may commence until a scheme for protection and mitigation measures for pink footed geese has been submitted **for approval at least four months prior to any works commencing and been approved** ~~to and approved~~ by the relevant planning authority in consultation with **Natural England** ~~NE~~.*

21.4.47. This alternative wording has been included in the rDCO as R34 The ExA has proposed these amendments in order to align the proposed Requirement with guidance provided by NE [REP8-106]. Subject to the use of this Requirement, the ExA would have greater confidence in the prospect of future mitigation measures coming forward to reduce the impact upon PFG to a level whereby an AEoI could be ruled out.

21.4.48. The Applicant's submission of without prejudice drafting for a Requirement relating to the mitigation of effects on PFG [REP8-052] and guidance provided by NE [REP8-106] was submitted at the final deadline in the Examination, shortly before it closed. The ExA is mindful that neither the Applicant or other IPs have had the opportunity to comment on submissions made at this deadline. The ExA also acknowledges the Applicant's request to be consulted if it deemed it appropriate to impose a

requirement relating to PFG with alternative wording to that proposed by the Applicant.

- 21.4.49. In the event that the SoS determines that the DCO should be made the SoS may wish to consult the Applicant and NE on the ExA's proposed wording for R34 in the rDCO.

Impacts on protected species connected to Wensum Woods

- 21.4.50. NE [REP1-138], provided notice that it had included an area known as Wensum Woodlands on a list for potential notification as a SSSI consideration due to the Barbastelle bat colony it contains. NE clarified that the inclusion of the Wensum Woodlands SSSI on the shortlist is not a commitment by NE to notify a SSSI, only to investigate the site further and noted that the spatial extent of the SSSI would be dependent on survey data collected by it. NE further noted that the process for notification of a decision would take several years to complete.
- 21.4.51. Nevertheless, NE advised that in order to future proof the project, there should be no damage due to construction or operation and maintenance activities that might hinder notification of the site and that proposed mitigation measures should be of 'gold standard' given the importance of the site and the presence of Barbastelles. NE also encouraged co-ordination with the Norwich Western Link application by NCC on this matter, noting that their survey information acquired is in the public domain.
- 21.4.52. The ExA asked [PD-012, Q1.13.2.1] the Applicant to provide a response to Ne's suggestion [REP1-138] that Wensum Woodlands may become a SSSI due to its Barbastelle bat colony and whether this would impact the Proposed Development in any way.
- 21.4.53. The Applicant [REP2-017] and [REP3-101, Q1.13.2.1] confirmed that it was aware that NE was considering Wensum Woodlands as part of its Site of Special Scientific Interest (SSSI) designations programme and confirmed that its design of the proposed cable corridor had been developed to avoid areas of woodland. The Applicant explained that this would be achieved via embedded mitigation, firstly through the routing of the cable corridor to avoid woodland areas, and where this would not be possible, the use of trenchless crossing techniques such as HDD. During the Examination, the Applicant further clarified [REP4-031] its position, noting that the construction of the proposed cable corridor would not involve any open-cut installation in the vicinity of such woodland and that for this reason, there would be no associated habitat loss of any woodland habitat in the Wensum valley. As a result, the Applicant anticipated that impacts to bats roosting in woodland, which may become designated as a SSSI, would not be an important and relevant matter for the SoS to consider.
- 21.4.54. The Applicant further noted that it had committed to completing pre-construction bat roost surveys of any trees which could have credible roost potential, and which would be at risk of being felled in its OEMP [APP-304]. As no part of the woodland forming the potential SSSI would be removed, there should be no concerns that works relating to the Proposed Development would leave bats roosting there under-protected.
- 21.4.55. In addition, the Applicant noted that it believed that a more detailed mitigation approach could not be designed and committed to at the current stage of the Proposed Development, in the absence of a confirmed site boundary of the potential SSSI, in the absence of information about the ecology of the proposed SSSI and before pre-construction surveys had taken place.

- 21.4.56. In response to a recommendation from NE [RR-063] that the Applicant consider adopting appropriate mitigation measures at the consenting phase in recognition that Wensum Woodlands is being considered for SSSI notification for bats, including barbastelles, the Applicant [REP4-031] noted that it had some uncertainty about what such mitigation might comprise, how it would be implemented and what it would be seeking to mitigate.
- 21.4.57. The Applicant highlighted its concern that consenting-phase mitigation could elevate the baseline value/importance of habitats in and around the Order limits before construction impacts occur and that it could, therefore, lead to increased impact risks during construction because the baseline value of the areas to be impacted would have been increased. Finally, the Applicant pointed out that it would have no powers to implement mitigation until the granting of consent, if the SoS decides that the Order should be made, and that mitigation could therefore only ever be implemented post-consent.
- 21.4.58. The ExA asked NE [PD-017, Q3.13.2.1] to clarify whether the Applicant's further evidence on this matter demonstrated that it would provide sufficient protection to protected species and adopt best practice measures of mitigation that would be suitable in the event that Wensum Woods were to be notified as a SSSI.
- 21.4.59. NE responded [REP7-110, R&I item 137] that it welcomed the Applicant's commitments to provide sufficient protection and mitigation, but reiterated that its comment related to potential habitat loss and ensuring that the Proposed Development does not hinder potential future notification of a SSSI.
- 21.4.60. At the close of the Examination this matter remained unresolved between the Applicant and NE, with NE continuing to hold concerns that potential habitat loss in this area as a result of the Proposed Development could hinder potential future notification of the SSSI. The Applicant [REP8-052] summarised its position at the close of the Examination, highlighting that the Order limits would not pass through any woodland habitat in the vicinity of the River Wensum and that as a result it expected that all habitats which would be designated as part of the Wensum Woods SSSI would be avoided. Whilst the Applicant has proposed to carry out HDD crossing works in the vicinity of the potential SSSI, it has recognised that there would be a number of hedgerows that may be breached through use of open cut techniques and in these instances, pre-construction surveys would be carried out to ensure that risks of habitat severance are considered.
- 21.4.61. Where the Applicant would be unable to avoid impact to hedgerows, mitigation would be incorporated which would be secured under the OEMP (Revision E) [REP8-025]. This mitigation could include replanting of existing hedgerows, as well as timing works so that any hedgerow breach occurred during bat dormancy periods.
- 21.4.62. The Norfolk Wildlife Trust signed a SoCG with the Applicant that, whilst not directly addressing the potential for Wensum Woods to be designated a SSSI because of bat activity, confirmed agreement with the Applicant's position that bats would be appropriately mitigated for via the OCoCP and the OEMP [REP8-112].

ExA's Reasoning

- 21.4.63. The ExA acknowledges the presence and importance of barbastelle bats in the local and wider geographic area around the onshore cable corridor or the Proposed Development.
- 21.4.64. The ExA also recognises that the designation of a site as a SSSI places national or international importance to it, with the necessary and correct level of protection being

afforded accordingly. Nonetheless, consideration of whether to designate Wensum Woods as a SSSI is at an early stage with no formal intent or timetable presented to the Examination. At this time, there is no roadmap before the Examination to set out when or how the SSSI would be drawn, be consulted upon or come into effect. The ExA takes the position that no designated status exists to have a material bearing on the outcome of this Examination. The ExA is, however, satisfied that the Applicant's assessments and schedule of mitigation remain robust and fit for purpose to limit impacts on this, and other, bat species.

- 21.4.65. The ExA is reassured that the Applicant's proposed methods of construction and approach to mitigation within the OCoCP and OEMP, secured in R13 and R19 of the rDCO, would suitably secure the necessary mitigation in this instance to adequately prevent any adverse effects occurring. Without this mitigation in place, the ExA notes that future construction works associated with the Proposed Development may have the potential to impact on Wensum Woods and potentially affect the determination as to whether to designate the area as a SSSI.

21.5. CONCLUSIONS

- 21.5.1. The mitigation proposed for aquatic wildlife, which would be to an industry standard in a well-established renewable energy industry, gives confidence to the ExA that potential adverse effects would be kept to a minimum. In addition, whilst the ExA note that Wensum Woods is being considered for potential SSSI status, the ExA notes that no designated status exists to have a material bearing on the outcome of this Examination. The ExA is reassured that the Applicant's proposed methods of construction and approach to mitigation within the OCoCP and OEMP, secured in R13 and R19 of the rDCO, would suitably secure the necessary mitigation in this instance to adequately prevent any adverse effects occurring.
- 21.5.2. The ExA is therefore satisfied that the Applicant's approach to mitigation would not hinder NE's assessments or progress towards making such a designation in the future. The ExA considers the Applicant has sufficiently addressed potential impacts on ecological receptors that rely upon onshore watercourses.
- 21.5.3. The ExA recognises the concerns regarding bentonite breakout, particularly in the River Wensum SAC / SSSI, where numerous protected features could be jeopardised if suitable mitigation measures were not put in place. However, the ExA is reassured that the Applicant is proposing to control this risk in an industry standard manner. The ExA also notes that the proposed method is the same as other made DCOs. The production of a bentonite breakout plan is contained within the suite of management plans secured in the rDCO and, to that end, the ExA does not conclude that it would be reasonable to impose a further or separate requirement for such a plan to be submitted.
- 21.5.4. The ExA notes that the need for mitigation to protect PFG was highlighted as a concern at the outset of the Examination. That, together with NE's emphasis on following standard and best practice guidance in order to reduce the impacts to a point where an AEoI could be ruled out, highlights the importance of the PFG to the NNC SPA.
- 21.5.5. The ExA is concerned that NE has not endorsed the Applicant's bespoke mitigation approach relating to PFG at any level. With the Applicant seeking to adopt a non-standard approach to PFG mitigation, the ExA is not content that the timing or presentation of the mitigation, taking the Applicant's current position, has been sufficiently secured in the dDCO

- 21.5.6. Departing from established advice from NE would represent a risk to the species and a risk that an AEol could not be ruled out upon PFG.
- 21.5.7. The implications of the Applicant's approach from a HRA perspective are detailed in Chapter 26 of this Recommendation Report.
- 21.5.8. The ExA considers that this conflict, and any impact pathway for PFG, could be resolved via an appropriately worded requirement in the dDCO. Therefore, the ExA has included a new provision, R34 in the rDCO to ensure that a PFG mitigation plan is agreed in consultation with NE. The ExA is mindful that the introduction of this additional requirement came too late in the Examination process for all parties to be consulted and for their views to be heard during the Examination. Therefore, if the SoS agrees that the inclusion of R34, is necessary, it should give consideration to consulting the Applicant and IPs on the wording of this requirement.
- 21.5.9. The ExA consider that the Applicant has provided suitably detailed surveys and reports to satisfy Paragraph 5.3.3 of NPS EN1. The Applicant has taken opportunities to conserve and enhance biodiversity. Development should aim to avoid significant harm to biodiversity and geological conservation interests, and with the inclusion of R34, the Applicant would achieve this in accordance with Paragraphs 5.3.7 of NPS EN1.
- 21.5.10. Having regard to the ES, the relevant evidence of all parties to the Examination, and subject to R34 for a PFG mitigation plan in the rDCO, it is the ExA's view that there is the Proposed Development's residual effects for onshore ecology are minimised, and consequently the ExA would ascribe habitats and ecology – onshore neutral wight in making the Order.
- 21.5.11. If however, the SoS is minded to not include R34 in the Order, the uncertainty over the Applicant's mitigation proposals for PFG would weigh against the case for the Proposed Development to a limited extent, and consequently the ExA would ascribe habitats and ecology – onshore minor weight against making the Order for all Development Scenarios.

22. WATER QUALITY AND RESOURCES

22.1. BACKGROUND AND POLICY CONTEXT

22.1.1. Water Quality and Resources is identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on: flood risk and drainage, including the application of sequential test and exception test; water resources and water quality, including measures to prevent pollution of aquifers; rivers, streams, canals and ditches from proposed construction methods and crossings; and the effectiveness of mitigation measures.

22.1.2. Related matters such as ground conditions and contamination are discussed in Chapter 20 of this Recommendation Report.

National Policy Statement

22.1.3. The assessment for Water Quality and Resources as set out in the Overarching National Policy Statement for Energy (NPS EN1) requires the Applicant to ensure:

- the application is supported by an appropriate Flood Risk Assessment (FRA) that assesses the risks of all forms of flooding to and from the project and demonstrate how these flood risks will be managed, taking climate change into account (NPS EN1, Paragraph 5.7.4); and
- undertake an assessment of the existing status of, and impacts of the proposed project on, water quality, water resources and physical characteristics of the water environment (NPS EN1, Paragraph 5.15.2).

22.1.4. In reaching a decision the Secretary of State (SoS) should be satisfied that:

- the application is supported by an appropriate FRA, that the Sequential Test has been applied as part of site selection, and that a sequential approach has been applied at the site level to minimise risk by directing the most vulnerable uses to areas of lowest flood risk (NPS EN1, Paragraph 5.7.9);
- development in Flood Zone 2 is not consented, unless it is satisfied that the sequential test requirements have been met (NPS EN1, Paragraph 5.7.12);
- development in Flood Zone 3 is not consented unless it is satisfied that the Sequential and Exception Test requirements have been met (NPS EN1, Paragraph 5.7.12).
- the proposal is in line with any relevant national and local flood risk management strategy, priority has been given to the use of sustainable drainage systems (SuDs), and in flood risk areas the project is appropriately flood resilient and resistant (NPS EN1, Paragraph 5.7.9);
- regard has been given to the control regimes regulating water abstraction activities and works to and structures in, on or under a 'controlled water' and to considerations in NPS EN1 Section 4.10 on the interface between planning control and pollution control for activities that discharge to the water environment (NPS EN1, Paragraph 5.15.4);
- a proposal meets the requirements of the Water Framework Directive (WFD) and has regard to relevant River Basin Management Plans and Water Resources Management Plans (NPS EN1, Paragraphs 5.15.5 and 5.15.6);
- consideration as to whether requirements and/or planning obligations are needed to mitigate adverse effects on the water environment (NPS EN1, Paragraphs 5.15.7); and
- consideration as to whether mitigation measures are needed over and above any which may form part of the application for Development Consent Order (DCO) consent (NPS EN1, Paragraphs 5.15.8).

Other Legislation and Policies

- 22.1.5. The legislation, policies and guidance relevant to the Proposed Development are set out in the ES Chapter 18 Water Resource and Flood Risk [APP-104, Section 18.4.1] and in Chapter 3 of this Recommendation Report. The Applicant's Planning Statement [AS-031], also sets out relevant national, regional and local planning policies that are considered relevant to the Proposed Development. The National Planning Policy Framework, 2021 (NPPF) is of particular relevance to flood risk.

22.2. THE APPLICATION

Environmental Statement

- 22.2.1. The Applicant's assessment of the Water Quality and Resources is set out in Environmental Statement (ES) Chapter 18 Water Resource and Flood Risk [APP-104]. Other application documents that are relevant include the figures supporting Chapter 18 [APP-129], the FRA [AS-023 to AS-030], WFD Compliance Assessment [APP-208], Onshore Substation Drainage Study [APP-210], Onshore Substation Hydraulic Modelling Technical Note [APP-211], Geomorphological Baseline Survey Technical Report [APP-212] and Outline Operational Drainage Plan (Onshore Substation) [APP-307].

Scope and Methodology

ES Chapter 18 – Water Resource and Flood Risk

- 22.2.2. As part of the Anglian River Basin Management Plan developed to comply with the WFD, the Environment Agency (EA) has defined river water body catchments based on surface hydrological catchments with an area of greater than 5km². The Applicant's study area for water resources and flood risk has been defined on the basis of these surface hydrological catchments. Catchments have been included within the study area if they are crossed by the onshore Order limits or are hydrologically connected downstream of the project area. When considering the potential effects to groundwater, the study area is limited to those groundwater bodies that lie directly beneath the project area.
- 22.2.3. For the purposes of the assessment, the Applicant defined each of the catchments as a single receptor, containing multiple Main Rivers and ordinary watercourses, and assigned a single sensitivity which reflects the most sensitive watercourse within that receptor.
- 22.2.4. The ES [APP-104] assesses the effect of the Proposed Development during construction on the direct disturbance of surface water bodies and increased sediment supply. For both the construction and operational phase, the assessment considers the effect on the supply of contaminants to surface and groundwater and changes to surface and groundwater flows and flood risk. The cumulative effects assessment considers the same potential effects for both construction and operation, alongside other projects. The relevant other projects are set out in the ES [APP-104, Table 18-33].
- 22.2.5. The worst-case scenario varies depending on the potential effect being assessed, as explained in the ES [APP-104, Table 18-2].

Flood Risk Assessment

- 22.2.6. In terms of the FRA [AS-023 to AS-030], the Applicant divided the study area into four sections: the landfall area; onshore cable corridor; onshore substation and temporary

works. Further, the Applicant sub-divided the study area of the onshore cable corridor into categories based on WFD Surface Water Operational Catchments.

- 22.2.7. The Applicant's FRA has been prepared in accordance with the methodology and guidance set out in NPS EN1, the NPPF, Planning Practice Guidance (PPG) for Flood Risk and Coastal Change and the EA's climate change allowance guidance (2022).

Water Framework Directive

- 22.2.8. The Applicant's WFD Compliance Assessment [APP-208] notes that there is no detailed published methodology undertaking WFD compliance assessments across all types of water bodies. It therefore draws on relevant guidance to support the assessment of various water body types. Such guidance includes: Advice Note 18 (Planning Inspectorate, 2017); Clearing the waters for all (Environment Agency, 2017); WFD risk assessment (Environment Agency, 2016a); and Protecting and improving the water environment (Environment Agency, 2016b).

- 22.2.9. The broad methodologies outlined in these guidance documents have been brought together to develop the Applicant's assessment methodology that can be used for all types of water bodies. The methodology used in this assessment covers three stages: screening; scoping; and the detailed compliance assessment.

Agreement of Scope and Methodology

- 22.2.10. Although it is unclear from the ES [APP-104] whether any of the methodologies set out above were agreed with the relevant bodies, it can be seen from the Statements of Common Ground (SoCG) with the EA [REP8-029] and Norfolk County Council (NCC) as Lead Local Flood Authority (LLFA) [REP7-084] that these were discussed at an Expert Topic Group Meeting in May 2020 and both parties has not raised any concerns in this regard. Further, Norfolk Rivers Internal Drainage Board (IDB) did also not raise any methodological concerns.

Applicant's Assessment of Effects and Proposed Mitigation

- 22.2.11. The Applicant's proposed embedded mitigation that is relevant to Water Quality and Resources is summarised in the ES [APP-104, Section 18.3.3]. This includes avoiding Groundwater Source Protection Zone (SPZ) 1 during site selection and using Horizontal Directional Drilling (HDD) when crossing main rivers.

- 22.2.12. Additional Mitigation specific to the Water Quality and Resources has been secured through the OCoCP [APP-302], Schedule 2, Part 1, Requirement (R) 19 in the Draft Development Consent Order (dDCO) [APP-024] and the Outline Operational Drainage Plan, Schedule 2, Part 1, R17 in the dDCO [APP-024]. This includes mitigation and working practices for:

- sediment management;
- pollution prevention;
- bentonite break out;
- surface water drainage;
- groundwater;
- foul drainage;
- flood warning and evacuation; and
- options to manage surface water drainage at the onshore substation site.

- 22.2.13. The conclusion in the ES [APP-104, Table 18-41] states that the residual effects of the Proposed Development on Water Quality and Resource would be no impact to

minor adverse for all construction and operational matters considered. Further, the cumulative assessment found no more than a minor adverse residual effect for any of the matters assessed [APP-104, Section 18.7.3].

- 22.2.14. The FRA [AS-023 to AS-030] concludes that on the basis of the flood risk identified both to and from the Proposed Development, and consideration of both the sequential test and exception test, it is appropriate in terms of flood risk and is in accordance with the NPPF.
- 22.2.15. The WFD Compliance Assessment [APP-208] finds that following the implementation of the outlined control measures during construction and operation, there will be no activities that have the potential to cause non-temporary effects to the status of any of the river and groundwater bodies assessed. It also finds that construction and operation will not prevent water body status objectives being achieved in the future. The assessment therefore concludes that the Proposed Development is considered to be compliant with the requirements of the WFD..

22.3. LOCAL IMPACT REPORTS

Broadland District Council and South Norfolk Council

- 22.3.1. Both Local Authorities (LA) note [REP1-066] [REP1-090] that one of the key pollution considerations is the impact on water quality.

North Norfolk District Council

- 22.3.2. North Norfolk District Council (NNDC) [REP1-082] defer to the expert advice of the EA, NCC as LLFA and the IDB.

Norfolk County Council

- 22.3.3. As LLFA, NCC note [REP1-080] that two outline surface water drainage designs have been developed but neither has been selected as the preferred option as the Applicant is not yet able to state where they are intending to discharge surface water to for disposal. Further information on the proposed surface water drainage will need to be provided for the LLFA to review.
- 22.3.4. NCC has considered the outline surface water drainage design as set out in the Outline Operational Drainage Plan; as well as the FRA; Onshore Sub-station Drainage Study; and accompanying Hydraulic Modelling. At this time, further evidence and clarification of information is required to:
- 4) Demonstrate that the proposed development is in accordance with NPPF with regard to the risk of flooding. There is currently insufficient information to demonstrate that surface water arising from the development would not result in an increase of flood risk to the proposed development at the Onshore Sub-station or elsewhere.
 - 5) Confirm where the surface water drainage proposals for the onshore sub-station will drain, site specific greenfield runoff rates and volumes, the comparable post-development runoff rate and volumes proposed to prevent an increased risk of flooding elsewhere.
 - 6) Update the hydraulic modelling, which influences the Proposed Development's design.
- 22.3.5. As such NCC as LLFA has a holding objection to the onshore elements of the Proposed Development.

22.4. THE EXAMINATION

22.4.1. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on are:

- 1) the effects of the Proposed Development on flood risk and drainage, including application of the sequential and exceptions tests and cumulative effects;
- 2) the effects on rivers, streams, canals and ditches from proposed construction methods and crossings; and
- 3) the effects on water resources and water quality, including measures to prevent pollution of aquifers.

Flood Risk and Drainage

Sequential and Exceptions Tests

22.4.2. The ExA explored matters associated with the sequential test and exception test early in the Examination [EV-021] [EV-025] [PD-010, Q1.24.1.3], including raising concern that the FRA [AS-014, Section 18.2.5] did not appear to apply the sequential test before then going onto consider the exception test in accordance with guidance in the NPPF. The ExA also noted that parts of the cable corridor and onshore substation footprint fall within flood zone 2 and 3 and asked what alternatives had been considered [EV-021] [EV-025] [PD-010, Q1.24.1.4].

22.4.3. In response, the Applicant [REP1-036, Q1.24.1.3] set out that it considered it had appropriately applied the sequential test at the early stages of consideration of alternative sites and site selection and is primarily recorded in the ES [APP-089], which formed a part of the wider flood risk assessment for the Proposed Development. The Applicant also noted that EA guidance states that the sequential test can be submitted in any format.

22.4.4. The Applicant set out [REP1-036, Q1.24.1.3] that the FRA [AS-023, Section 18.2.5] provides clarification that all elements of the Proposed Development have been sited, wherever possible, in locations at low risk of fluvial / coastal and surface water flooding and acknowledges that whilst there are locations where there is interaction with Flood Zone 3, this is because the Proposed Development is required to pass under, or in proximity to, existing watercourses.

22.4.5. Furthermore, in relation to the onshore substation, the Applicant identified [REP1-036, Q1.24.1.3] that the FRA [AS-023, Paragraph 386] acknowledges the sequential test in relation to surface water flooding at the onshore substation and notes the approach adopted to understanding surface water flood risk in greater detail, as set out in the Onshore Substation Hydraulic Modelling Technical Note [APP-211]. It was also noted [REP1-036, Q1.24.1.4] that whilst the iterative design process for the onshore substation limits the interaction with the potential area of surface water flooding, the location and layout of the platform is also influenced by other environmental factors including visual, landscaping and cut and fill requirements.

22.4.6. The ExA then asked [EV-038] [EV-042] [PD-012, Q2.24.1.1] the Applicant to explain why an area of flood risk west of Little Barningham could not be avoided by the onshore cable corridor. On a related matter, the EA also set out [RR-032] [REP1-111, Q1.24.4.8] that there is an ordinary watercourse trenched crossing (PRoW003 at Matlaske Road, Little Barningham) that is in fluvial Flood Zone 3a and based on the information available it had concerns that there had been no consideration of flood risk to third parties.

- 22.4.7. The Applicant responded [REP3-101, Q2.24.1.1] that the routing of the cable corridor near Little Barningham was restricted by a number of constraints including the existing Sheringham Shoal cable to the west, and the ecological, archaeological and technical constraints, including buried utilities, to the east. The onshore cable corridor has been located to avoid interactions with these features so far as possible. The Applicant also set out that the area of flood risk in this area extends in a broadly north west to south east direction and on this basis, the onshore cable corridor would be required to pass over the area at flood risk in a perpendicular manner, regardless of whether it was to pass through the area to the west or east of Little Barningham.
- 22.4.8. Finally, the Applicant also noted that the EA and the LLFA have confirmed they are content with the information provided by the Applicant in the Flood Risk at Matlaske Road Technical Note [REP2-054].

ExA's Reasoning

- 22.4.9. Although not set out in one place, the ExA is satisfied that the sequential test is in line with guidance in the NPPF and PPG and has been appropriately considered by the Applicant, as part of the site selection and design process. Further, the ExA is content that the area of flood risk to the West of Little Barningham could not be avoided due to the extent of the floor risk area, and to avoid other constraints in the area including the existing Sheringham Shoal cable to the west and buried utilities, to the east.
- 22.4.10. The ExA is also content that where flood zone 2 and 3 areas are encountered by the Proposed Development it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives) and there are not reasonably available sites in areas with a lower risk of flooding.
- 22.4.11. Given this, the exception test needs to be considered. The ExA considers that the Proposed Development provides wider sustainability benefits to the community in terms of renewable energy that outweigh the flood risk. The ExA is also satisfied that it has been demonstrated that the infrastructure will be safe for the duration of its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere. The ExA therefore considers the exception test is met.

Onshore Substation Drainage

- 22.4.12. As set out above under the LIR section, NCC in their role as LLFA raised a number of concerns [RR-064] [REP1-080] with regard to flood risk and drainage associated with the proposed onshore substation. The main concerns related to a lack of confirmation of where the surface water drainage proposals for the onshore sub-station will drain, site specific greenfield runoff rates and volumes, the comparable post-development runoff rate and volumes proposed to prevent an increased risk of flooding elsewhere.
- 22.4.13. Early in the Examination the Applicant informed [AS-036] the ExA of its intention to submit a change request that included the confirmation of the surface water drainage solution at the onshore substation. This set out that the Applicant had been undertaking further surveys and monitoring in this area which confirmed that infiltration directly into a shallow granular zone can be adopted. As such, it was proposed that a shallow infiltration solution would be taken forward as the sole surface water drainage approach at the onshore substation and the connection to the Anglian Water foul sewer option would not be progressed further. A change request [REP2-001a] was submitted and accepted by the ExA [PD-013]. Further details about

the change request procedure can be found in Chapter 4 of this Recommendation Report.

- 22.4.14. The ExA sought an update on such matters, more information on the investigations and a summary of discussions with the EA and LLFA [PD-010, Q1.24.1.6]. The Applicant explained [REP1, Q1.24.1.6] that ongoing investigations had been undertaken, including obtaining further information for the area of the proposed Onshore Substation during a geophysical survey and supplementary ground investigation works that included exploratory holes. As the data from the exploratory holes became available this enabled the Applicant to further consider the options for the proposed surface water drainage for the Onshore Substation platform.
- 22.4.15. The Applicant also set out [REP1, Q1.24.1.6] that the initial ground investigations returned results showing no water within the boreholes. In addition, the geophysical surveys identified shallow granular zones potentially suitable for infiltration. The survey found that these shallow granular zones appeared to be linked to a historic river channel that had been infilled with granular deposits to a depth of approximately 10 metres (m). All groundwater monitoring showed there is no groundwater encountered in any of the exploratory holes. The results of the supplementary ground investigations also indicated beneficial infiltration rates in key locations around the onshore substation site that would be in excess of those that would be needed to deliver an infiltration solution. Further, the Applicant advised that a cut and fill exercise had been undertaken to aid in the development of the outline design for the onshore substation platform. As part of this exercise, it had been identified that removal of the overlying material will result in the shallow granular material being present at the Onshore Substation platform level.
- 22.4.16. The Applicant confirmed [REP1, Q1.24.1.6] it had discussed the matter with both the EA and LLFA who were supportive of the approach. The Applicant also provided an addendum to the FRA [REP2-052] and an additional Onshore Substation Hydraulic Modelling Report [REP2-055] to seek to overcome the concerns of the LLFA.
- 22.4.17. The ExA sought an update on the matter from both the Applicant and the LLFA [EV-038] [EV-043]. The Applicant noted that as part of the ongoing dialogue with the LLFA there would need to be a few refinements to the outline design which would lead to document updates. These were subsequently provided in the form of revised versions of the: Onshore Substation Drainage Study [REP3-036]; Onshore Substation Hydraulic Modelling Report [REP3-099]; Outline Operational Drainage Strategy [REP3-070]; and Addendum to the Flood Risk Assessment [REP3-097]. The LLFA set out [REP4-046] that all but one of its concerns had been addressed by this further work that related to sensitivity testing of infiltration losses.
- 22.4.18. The ExA asked [PD-017, Q3.24.1.2] the Applicant how the remaining concern on sensitivity testing of infiltration losses would be addressed. An updated Onshore Substation Hydraulic Modelling Report was subsequently provided [REP5-045]. The LLFA confirmed [REP7-085, Q4.24.1.1] that all of its concerns had been overcome.
- 22.4.19. On a related matter, the ExA also asked [PD-012, Q2.24.1.2] whether there could be the potential for cumulative effects with the proposed onshore substation for Orsted Hornsea Project Three (Hornsea 3) Offshore Wind Farm (OWF) if that was also seeking an infiltration solution for surface water drainage. The Applicant responded [REP3-101, Q2.24.1.2] by setting out that following a review of the hydraulic modelling undertaken for the Proposed Development, as well as the EA Risk of Flooding from Surface Water mapping, the Hornsea 3 infrastructure would be located in a separate hydrological catchment and drain in a different direction and to an alternative receiving watercourse.

- 22.4.20. At the end of the Examination, Derek Aldous [REP8-125] raised concern about the cumulative effects from Hornsea 3 and the Proposed Development. The representation noted flooding of the public highway at the Hornsea 3 substation site adjacent to the B1113 and suggested that a recently completed project (by local highway authority) to reduce flooding on this section of the highway, which included new underground drainage pipes and a roadside attenuation pond has been made ineffective by site roadside ditches having been filled in to gain access to the site for heavy construction traffic. Due to this being submitted on the last day of the Examination, the Applicant has not had the opportunity to respond.

ExA's Reasoning

- 22.4.21. The ExA is content, on the basis of support from the LLFA that the infiltration solution pursued by the Applicant is appropriate and the final details of which are suitably secured by R17 of the rDCO.
- 22.4.22. The final iteration of the OCoCP [REP8-023, Section 8] includes a range of measures to manage flood risk and drainage during construction. This includes the production of a Construction Surface Water Drainage Plan. The OCoCP [REP8-023, Paragraph 151] sets out that existing land drains along the onshore cable route and at the onshore substation will be reinstated following construction and a local specialist drainage contractor will undertake surveys to locate drains and create drawings both pre and post construction and ensure appropriate reinstatement. It also goes on to say that the Construction Surface Water Drainage Plan will include provisions to minimise water within the working area and ensure ongoing drainage of surrounding land. This approach has not raised any concern with the EA or LLFA. The ExA is content that flood risk and drainage matters, including those cumulatively with Hornsea 3 can be appropriately managed through the OCoCP, as secured by R19 of the rDCO.

Effects on Rivers, Streams and Ditches from Proposed Construction Methods and Crossing

- 22.4.23. Several Interested Parties (IPs) [REP1-159] [REP1-171] [REP1-183] [EV-074] [EV-075] have raised concern about the potential effects of trenchless crossings on the chalk stream known as Spring Beck and sought for the Applicant to provide evidence and actual examples where such works have been used successfully to construct cable routes under sensitive watercourses. Further, concerns were also raised [REP3-167] [REP3-175] that there is no detail about the use of HDD other than that the cable will be two metres below the channel and it was suggested that in the absence of site specific geology there is significant risk to the chalk strata and potential effects on Spring Beck from bentonite breakout.
- 22.4.24. The ExA asked [PD-012, Q2.24.3.2] the Applicant about these matters and if there was any precedence for undertaking HDD works underneath chalk streams.
- 22.4.25. Interested parties suggested [REP4-052] that the use of HDD crossing is not in itself sufficient to mitigate risk of significant adverse impacts and that if HDD is too deep, it will affect the underlying chalk strata, and if too shallow will affect the stream directly. Concern [REP5-098] [REP5-100] [REP5-101] [REP6-031] [REP6-038] was also raised that there was the potential for two HDD crossings should the projects be built separately and whether this has been assessed in the ES.
- 22.4.26. The Applicant's position [REP3-101, Q2.24.3.2] [REP5-052] [REP7-070] was that:
- 1) It is understood that Spring Beck is a globally rare chalk stream, and this was taken into account in ES [APP-104] [APP-212]. Trenchless crossing techniques

could potentially have some effect upon groundwater dependent surface watercourses such as chalk streams, for example by changing groundwater flow patterns or releasing drilling fluids.

- 2) There is established precedent for crossing chalk streams using trenchless techniques such as HDD. The onshore transmission infrastructure for the existing Dudgeon Offshore Windfarm used HDD to cross chalk streams along the onshore cable corridor, including the River Wensum Site of Special Scientific Interest and Special Area of Conservation. Other recently consented projects, including the Norfolk Vanguard and Norfolk Boreas OWFs will cross chalk rivers along their cable route using trenchless crossing techniques. There is therefore a strong precedent for using trenchless techniques, which is supported by the relevant competent authorities.
- 3) The worst-case scenario has been assessed in the ES and the assessment is not dependant on the number of drills crossing watercourses rather the area or length of habitat/area of disturbance of catchment within the DCO Order Limits at the location of the watercourse crossing.
- 4) For concurrent construction, during detailed design the HDD drill profile will be determined as either trefoil (one drill housing three ducts) or single drills (one drill per duct). Therefore, trefoil equates to two drills for both Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) and single drills equates to six drills for both SEP and DEP. For sequential construction, the same would apply as for concurrent construction and for in-isolation construction, during detailed design the HDD drill profile will be determined as either trefoil (one drill housing three ducts) or single drills (one drill per duct). Therefore, trefoil equates to one drill for one project and single drills equates to three drills for one project.
- 5) The Applicant has committed to undertake a site-specific hydrogeological risk assessment at each trenchless crossing location and this is secured in the OCoCP [APP-302]. The results will allow the trenchless crossing to be designed to minimise risks to groundwater-bearing strata and groundwater-dependent surface water features associated with them.
- 6) The OCoCP [APP-302] sets out a suite of measures that would be adopted during construction to minimise the risks of bentonite breakout on chalk streams and other surface watercourses.
- 7) The Applicant has undertaken extensive consultation with the EA and they have supported the commitment to use trenchless techniques to cross chalk streams rather than alternative open trench techniques.

22.4.27. The concerns of the IPs remained at the close of the Examination.

ExA's Reasoning

22.4.28. The ExA acknowledges the concerns of the IPs in relation to the potential effects on Spring Beck chalk stream. The ExA is satisfied that the potential effects relevant to this section of the report have been appropriately identified and assessed in the ES.

22.4.29. The ExA is mindful that the final iteration of the OCoCP [REP8-023, Section 8.1.3] secures ground investigations and a hydrogeological risk assessment meeting the requirements of Groundwater Protection Principles (Environment Agency, 2017) at each HDD crossing location. Further, the OCoCP [REP8-023, Section 8.1.4] also secures a site-specific risk assessment as part of the post consent detailed design process, which will consider the potential risks of using trenchless crossing techniques and set out the procedures required to monitor construction activities and avoid bentonite breakouts. The final CoCP is secured by R19 of the rDCO.

22.4.30. The ExA is content that the secured mitigation would ensure that there would be no significant effects on Spring Beck. In terms of concerns about assessments being

undertaken post consent, the ExA is persuaded by the Applicant's view it is difficult to fully assess and investigate such effects until the final design is known post consent. Further, the LLFA [EV-038] [EV-043] confirmed that it is content for such assessments and investigations to be undertaken post consent as part of detailed design.

Water Resources and Quality

Source Protection Zones

- 22.4.31. The ExA noted that there was a commitment in the ES [APP-104, Paragraph 83] that there will not be any intrusive works within Source Protection Zones 2 (SPZ2) and asked the Applicant [PD-010, Q1.24.2.15] to signpost where this specific measure was provided for in the dDCO and its suite of management plans.
- 22.4.32. The Applicant clarified [REP1-036, Q1.24.2.15] that this was a small overlap covering an area of the proposed onshore substation temporary construction access road where it leaves the A140 Ipswich Road. Further, it was suggested works would be limited to a maximum depth of 600mm below the ground surface to assist in minor road widening, making the ground suitable for construction traffic use. At this time, the Applicant also amended the OCoCP [REP1-023, Paragraph 121] to incorporate this commitment.

ExA's Reasoning

- 22.4.33. Following the revision to the OCoCP, in relation to SPZ2, and the fact that the final iteration of the OCoCP [REP8-023, Paragraph 152] also secures that no works will be undertaken in SPZ1 areas, to ensure there is no direct impact on sensitive potable abstractions, the ExA is content that the Proposed Development would not cause any significant adverse effects on any areas of SPZ1 and SPZ2.

Private Water Supplies

- 22.4.34. The potential for construction works to affect private water supplies has raised some concern [RR-110]. The ExA examined [PD-010, Q1.24.2.17] whether it was justified to address impacts on private water supplies post-consent and how this was secured in the dDCO.
- 22.4.35. The Applicant set out [REP1-036, Q1.24.2.17] that specific measures to mitigate potential effects on private water supplies will be identified post consent, given that appropriate ground investigation data used to inform the detailed design process was not available at the time of DCO submission. Further, it was noted that mitigation to protect surface and groundwater quality is set out in the OCoCP [APP-302, Sections 3.9 and 6], secured by R19 of the dDCO [REP8-005].

ExA's Reasoning

- 22.4.36. The ExA is persuaded by the Applicant's view that suitable measures to mitigate potential effects on private water supplies can be identified post consent. The ExA notes that the final iteration of the OCoCP [REP8-023, Paragraphs 28 and 155] sets out that pre and post construction drainage plans will be developed by a qualified drainage specialist to record details of existing drainage arrangements and private water supplies and that these will be reinstated to their pre-construction condition. The ExA is therefore content that such matters can be suitably addressed and mitigated post consent and such measures are appropriately set out in the OCoCP [REP8-023], secured by R19 of the rDCO.

22.5. CONCLUSIONS

- 22.5.1. The ExA has found that the sequential test has been appropriately applied and the Proposed Development meets the exception test. Further, the ExA is content that all flood risk and drainage matters, including those cumulatively with Hornsea 3 can be appropriately managed through the OCoCP [REP8-023], as secured by R19 of the rDCO.
- 22.5.2. The ExA is satisfied that the mitigation identified in the final iteration of the OCoCP [REP8-023, Sections 8.1.3 and 8.1.4], as secured by R19 of the rDCO, would ensure that there would be no significant adverse effects on Spring Beck.
- 22.5.3. The ExA can conclude that with the secured mitigation [REP8-023, Paragraphs 28, 152 and 155], there would be no significant adverse effects on source protection zones or private water supplies.
- 22.5.4. The ExA concludes that the Proposed Development complies with the Paragraphs 5.7.4, 5.7.9, 5.7.12, 5.15.4, 5.15.5, 5.15.6, 5.15.7 and 5.15.8 of NPS EN1 in relation to flood risk, drainage and water resource and quality matters. The ExA also considers that the Proposed Development complies with the NPPF and PPG in relation to flood risk matters.
- 22.5.5. Further, the ExA accepts the conclusions of the WFD Compliance Assessment [REP3-034] that following the implementation of the outlined control measures during construction and operation, there will be no activities that have the potential to cause non temporary effects to the status of any of the river and groundwater bodies assessed and will also not prevent water body status objectives being achieved in the future. The Proposed Development therefore complies with the requirements of the WFD.
- 22.5.6. Notwithstanding all of the above, as set out in the ES [APP-104, Table 18-41] there is the potential for minor adverse residual effects for all construction and operational matters considered under this section, including cumulatively with other projects. Subsequently, the ExA concludes that potential effects on water quality and resources, including flood risk carries minor weight against the making of the Order for all Development Scenarios.

23. LANDSCAPE AND VISUAL EFFECTS

23.1. BACKGROUND AND POLICY CONTEXT

23.1.1. Landscape and Visual Effects have been identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on landscape character and views, on designated and historic landscapes, including North Norfolk Area of Outstanding Natural Beauty (AoNB) as well as the effectiveness of mitigation proposals.

National Policy Statement

23.1.2. The assessment for Landscape and Visual Effects as set out in the Overarching National Policy Statement for Energy (NPS EN1, Section 5.9) and the National Policy Statement for Renewable Energy Infrastructure (NPS EN3) require from the Applicant:

- that proposals for renewable energy infrastructure should demonstrate good design in respect of landscape and visual amenity (NPS ENEN1, Paragraph 5.9.5);
- that its assessment should include the likely effects on landscape components and landscape character during construction and operation (NPS EN1, Paragraph 5.9.6);
- its assessment should report on the visibility and conspicuousness of the project at construction as well as the operational effects on views and visual amenity. This should include effects of light pollution on local amenity and nature conservation (NPS EN1, Paragraph 5.9.7);
- that the existing character of the local landscape, its quality, its value, and its capacity to accommodate change should all be considered in judging the impact of a project on the landscape (NPS EN1, Paragraph 5.9.8);
- that it considers advice in relation to applications affecting nationally designated landscapes (NPS EN1, Paragraphs 5.9.9 to 5.9.11);
- that it gives careful consideration to appropriate siting of infrastructure within a defined site; to the design, including colours and materials, building form and landscaping schemes, depending on the size and type of the proposed project in order to minimise adverse landscape and visual effects (NPS EN1, Paragraph 5.9.22);
- that it considers whether it would be appropriate to undertake landscaping off-site. For example, filling in gaps in existing tree and hedge lines would mitigate the impact when viewed from a more distant vista (NPS EN1, Paragraph 5.9.23); and
- that where a precise route for the cable from the wind farm to a precise location for the onshore substation and connection to the transmission network has been identified, the Environmental Impact Assessment (EIA) should assess the effects of the cable (NPS EN3, Paragraph 2.6.37).

23.1.3. In reaching a decision the Secretary of State (SoS) should be satisfied that:

- local landscape designations are not in themselves used to refuse consent. Attention should be given to local planning policies based on landscape character assessment (NPS EN1, Paragraph 5.9.14);
- it considers the overall balance of any adverse effects and whether any adverse impact on the landscape would be so damaging that is not offset by the benefits (including need) of the project (NPS EN1, Paragraph 5.9.15);
- it should consider the duration and reversibility of any adverse effects and whether any adverse impact on the landscape will be capable of being reversed in a timescale that the SoS considers reasonable (NPS EN1, Paragraph 5.9.16); and

- that it considers the design mitigation of the project, whether this has sought to minimize harm to the landscape and whether the visual effects on sensitive receptors outweigh the benefits of the project (NPS EN1, Paragraph 5.9.17 and 5.9.18).

Other Legislation and Policies

- 23.1.4. The legislation and guidance relevant to Landscape and Visual Effects is set out in Environmental Statement (ES) Chapter 26 [APP-112, Section 26.4.1]. The Applicant's Planning Statement sets out the national, regional and local planning policies that are considered relevant to the Proposed Development [APP-285, Section 5]. These are also set out in Chapter 3 of this Recommendation Report.
- 23.1.5. The National Planning Policy Framework 2021 (NPPF) has been a relevant consideration for Nationally Significant Infrastructure Project (NSIP) development proposals in respect of Design. The ExA notes that the NPPF was updated by the SoS for Levelling Up, Housing and Communities in September 2023, after the close of the Examination into the Proposed Development, to update policy on planning for onshore wind development in England. Due to the nature of these changes to the NPPF, the ExA does not regard them as likely to carry significant weight in its assessment of design issues in the context of its recommendation.

23.2. THE APPLICATION

Environmental Statement

- 23.2.1. The Applicant's assessment of Landscape and Visual Effects is set out in the ES in Landscape and Visual Impact Assessment (LVIA) [APP-112], Other application documents that are relevant include the outline Landscape Management Plan (OLMP) [APP-303] and Figures – Landscape and Visual Impact Assessment [APP-153 to APP-172].

Scope and Methodology

- 23.2.2. The Applicant's approach, as set out in its LVIA [APP-112] is based on the maximum parameters, which would occur as a result of the maximum land-take; the longest durations of construction, operation and decommissioning; and the maximum height/size of development. Should smaller, shorter and/or lower parameters apply, the Applicant notes that landscape and visual receptors could be affected to a lesser degree.
- 23.2.3. The parameters for the Proposed Development are set out by the Applicant in Chapter 4 Project Description [APP-090], which sets out the key details of the specific activities and their durations. The Applicant notes [APP-112, Section 26.3.2.1] that whilst the Proposed Development is the subject of one application, it is possible that either one or both of the Sheringham Extension Project (SEP) and Dudgeon Extension Project (DEP) projects would be developed and if both are developed, that construction may be undertaken either concurrently or sequentially, with a sequential construction program expected to have the longest duration.
- 23.2.4. The Applicant confirmed that [APP-112, Section 26.3.1] the study areas for the onshore development works has been agreed with relevant planning authorities and consultees as set out in [APP-112, Table 26.1]. The Applicant states that these areas were further agreed as being appropriate to cover all potentially material landscape and visual significant impacts and have been informed by the extent of Zone of Theoretical Visibility (ZTV) studies, professional judgement and fieldwork.

23.2.5. The Applicant summarises the extent of the study areas agreed as follows:

- 1) Onshore cable corridor – a 1km study area beyond the Order limits.
- 2) Onshore substation – a 4km study area beyond the proposed substation.

Applicant's Assessment of Effects and Proposed Mitigation

23.2.6. The Applicant categorises the greatest potential effects arising as a result of the proposed onshore cable corridor would be experienced during the construction phase of the Proposed Development even though this period would be temporary in nature and of shorter duration than the operational phase. However, the Applicant notes that during this period, the visible nature of the construction activity would be experienced to a greater degree than the buried cable that would operate during the subsequent phase of the Proposed Development.

23.2.7. In contrast, the Applicant notes that the greatest potential effects arising as a result of the onshore substation would occur during the operational phase of the Proposed Development. The construction and decommissioning phases for the proposed onshore substation would be shorter in duration and temporary in nature compared to the operational phase and the Applicant has assessed that they would affect receptors to a lesser degree.

23.2.8. The Applicant's proposed embedded mitigation that is common across the Proposed Development and relevant to Landscape and Visual Effects is set out in the Applicant's Project Description [APP-090] and is summarised in the ES [APP-112, Section 26.3.2.5].

23.2.9. Embedded mitigation specific to Landscape and Visual Effects has been secured through the OLMP [APP-303], and Requirements 12, 13 and 14 in the draft Development Consent Order (DCO) [REP8-005]. The Applicant categorises its approach as mitigation by design [APP-112, Section 26.6.1], which is underpinned by the early decision to minimise the potential effects that might arise as a result of the Proposed Development on landscape and visual receptors. The Applicant's embedded mitigation of Landscape and Visual effects includes:

- 1) A combined cable corridor with underground cables in order to pylons and overhead.
- 2) Where it would not be possible to avoid woodlands or groups of trees, for example, to retain these through the proposed use of trenchless crossing techniques.
- 3) The same approach (where necessary) is proposed at locations where the cable corridor crosses other features such as main roads, railways and watercourses.
- 4) The selection of the onshore substation site from a choice of possible sites assessed.
- 5) Reduction, as far as reasonably and practically possible, of the substation platform's height from the maximum parameter assessed for the ES.

23.3. LOCAL IMPACT REPORTS (LIRs)

Broadland District Council (BDC)

23.3.1. BDC's LIR [REP1-066] confirms its agreement that the Applicant's LVIA has been carried out in accordance with the accepted industry guidance. BDC also note there are some points of detail that may merit further scrutiny or debate but confirm that it generally concurs with the Applicant's findings.

23.3.2. It is accepted by BDC that currently no veteran trees/ancient woodland are shown to be removed or impacted on, though it notes that a survey for the whole route has not

been produced. However, BDC indicate that they are aware that there are many smaller ancient woodlands and veteran trees which are not recorded on the Applicants Ancient Woodland tree Inventory. Therefore, in the absence of a full survey BDC are unable to categorically state that none will be lost or harmed by the Proposed Development. This applies to trees within the Order limits as well as those outside but still within buffer zones.

- 23.3.3. BDC note that the Applicant did not provide an assessment in line with the 1997 Hedgerow Regulations with its application. In the absence of the information in terms of the 'importance' of hedgerows under the Hedgerows Regulations and assessment of trees implicated in the scheme, BDC do not find it possible to conclude on the impacts of the cable route in this context and requests further clarity as to when replanting may not be the possible, or when the 'importance' of a hedgerow cannot be safeguarded.
- 23.3.4. BDC notes the Applicant's proposal to route the proposed cable route through Honingham Park where the loss of trees could harm the Landscape Character of the parkland and welcomes the Applicant's proposed trenchless section of cabling across the historic parkland to minimise or avoid any loss of trees or harm to the landscape character of the parkland.

North Norfolk District Council (NNDC)

- 23.3.5. NNDC's LIR [REP1-082] states that there would be residual landscape and visual effects after the construction phase associated with tree and hedgerow removal. NNDC has noted that the onshore cable route easement would prevent replacement trees being planted and that this would therefore require careful consideration with regard to mitigation planting.
- 23.3.6. In previous Offshore Wind Farm (OWF) proposals affecting NNDC, it has identified a need (evidenced by climatic variances) for ten-year replacement planting periods for proposed mitigation. NNDC is pleased to see that the Applicant proposes a ten-year replacement planting period as contained within dDCO Requirement (R) 12 (2) [APP-024].
- 23.3.7. NNDC has raised concerns with the Applicant about an area of Weybourne Woods where a 100 metres (m) x 50m area of woodland will require clearance for a drill entry/exit compound.
- 23.3.8. NNDC notes that the Applicant's outline Landscape Management Plan (LMP) does not make reference to the principles that would guide replacement and mitigation planting along the cable route. NNDC consider that it should be set out within the outline LMP that proposals will be informed by the Landscape Guidelines set out in both the North Norfolk Landscape Character Assessment (2021 SPD) and the Norfolk Coast AoNB Integrated Landscape Character Guidance.

South Norfolk Council (SNC)

- 23.3.9. SNC's LiR [REP1-090] confirms that the Applicant's LVIA has been carried out in accordance with the accepted industry guidance, with some points of detail that require Examination.
- 23.3.10. SNC note that the greatest effect would be on the site of the proposed sub-station and highlights that the Applicant's LVIA concludes that the impact would be moderate significance adverse but that this would diminish outside the site where the effects would not be significant.

- 23.3.11. In terms of visual impact, SNC highlights the Applicant's finding of major adverse impact on receptors on Public Rights of Way (PRoWs), permissive bridleways and Gowthorpe Lane. SNC agree that the effect of the onshore substation element of the Proposed Development would be major adverse. In respect of mitigation, SNC has noted that additional planting to further screen the proposed substation is proposed but points out that this planting would take a long time to establish. SNC also consider that some of the degree of harm can be mitigated against through use of carefully considered materials and colours during the Applicant's design process for the onshore substation.
- 23.3.12. In the absence of detailed design of the proposed substation SNC express doubt that visual mitigation from planting would be possible, especially if the proposed structures are constructed to the maximum height modelled by the Applicant, which shows buildings modelled at 15m high and external equipment modelled at 30m high.
- 23.3.13. SNC also echo the observations made by BDC, set out in sections 23.3.2 and 23.3.3 above relating to the absence of both full survey information of ancient woodland and veteran trees as well an assessment in line with the 1997 Hedgerow Act.
- 23.3.14. SNC note that the Applicant is proposing a trenchless route section of the proposed cabling where the route crosses elements of historic parkland. SNC welcomes this approach.
- 23.3.15. SNC have highlighted the location of the Hornsea Project Three substation, the Energy Balancing Infrastructure, the infrastructure for the provision and storage of energy; and the East Anglia GREEN electricity pylons as set out in the relevant development projects. SNC remain concerned about the combined impacts of these developments proposed and consented, which are located around Norwich Main, together with substation element of the Proposed Development, would have on the District's rural landscape.

Norfolk County Council (NCC)

- 23.3.16. NCC LIR [REP1-080] encourages the Applicant to undertake replanting proposals holistically with the assessment and expect to see phased and layered planting around the onshore substation site to afford long distance screening in the landscape without creating block planting that would not appear congruent with the landscape And for the Applicant to minimise losses where possible and propose suitable mitigation where losses are unavoidable, NCC would support a "no net loss" approach.
- 23.3.17. NCC raise concerns regarding the cumulative impacts on the landscape to the North West and West of Norwich where several proposals (albeit at different stages) are currently in discussion or in the planning system. The impact of necessary vegetation removal and construction operations for all these schemes in a comparatively short period of time would have the potential to cause large scale impacts on the same areas, especially where some of these proposals overlap. NCC advises that whilst individually or when considering the combination of 2 or 3, the impacts may be minimal, the perception and experience of the landscape with such extensive works over a period of a few years should be considered.

23.4. THE EXAMINATION

- 23.4.1. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered, and concluded on are:

- 1) the effectiveness, of the Applicant's approach to mitigation of visual impacts from the onshore substation; and
- 2) the Applicant's approach to tree hedgerow removal, replanting, aftercare, management and maintenance.

The effectiveness, of the Applicant's approach to mitigation of visual impacts from the onshore substation

- 23.4.2. During the course of the Examination, the ExA sought to clarify details relating to the Applicant's proposed mitigation of potential visual effects from the onshore substation. This approach is bound together with the examination of the Applicant's overall approach to its design process, which is discussed in Chapter 6 of this report.
- 23.4.3. Further to issues raised in LIRs and the ExA's examination of the Application documents, the ExA asked [PD-010, Q1.17.1.2] the Applicant to clarify the extent of landscape which would need to be planted to mitigate the visual effects of the proposed onshore substation in all scenarios and whether the Applicant anticipated that its landscape proposals would fully mitigate these visual effects. The ExA also asked the Applicant, in the same question, to set out how the various elements of the proposed substation in each scenario would be arranged in order to minimise visual effects.
- 23.4.4. In response the Applicant confirmed [REP1-036] that the extent of proposed new landscaping to be planted at the onshore substation was illustrated in its outline LMP (Revision B) [REP1-025, Figure 1]. The Applicant further confirmed that new planting would be contained within the Order limits and would reflect existing native species within the context of the substation. The Applicant noted that existing vegetation would be strengthened where necessary by planting gaps with new native (and of local provenance) species. In addition, new areas of woodland, tree belts and scrub and scrubby grassland planting were proposed around the proposed substation with the objective to improve the green infrastructure network; help screen and filter views of the onshore substation from surrounding landscape and visual receptors; and integrate it into its landscape context.
- 23.4.5. The Applicant also clarified [REP1-036, Q1.17.1.2] that its approach would be to determine the final design and layout of the electrical equipment and buildings at a post-consent stage, but that its LVIA is not sensitive to particular layouts, given that the height and scale of the equipment would be the main criteria which determine effects, not the precise location of elements on the site. The Applicant also noted that whilst the proposed planting would grow to partially screen the buildings and lower parts of the equipment within the site, and help it become more integrated in the landscape, it would not notably reduce the scale of landscape effect over time. Taller parts of the onshore substation would remain visible above and beyond intervening vegetation, especially during the winter month when the vegetation is out-of-leaf. It is the Applicant's position that its LVIA has identified the greatest effects within a realistic worst-case scenario and that some of these effects are judged by it to be adverse.
- 23.4.6. The ExA asked LAs [PD-010, Q1.17.3.4] whether mitigation planting illustrated by the Applicant would be effective in reducing the magnitude and significance of the visual effect of the Proposed Development. In response, SNC [REP1-102] stated that in respect of the onshore substation, given the size and scale of the substation (15m in height) landscaping/planting would not minimise the impact of the substation at its higher level. In the same response SNC continued to say that if the Proposed Development were granted consent it would wish to work with the Applicant to ensure that its design proposals for the onshore substation were of a sufficiently high

standard that they would minimise any impact on the character and visual appearance of the area.

- 23.4.7. The ExA also asked the Applicant [PD-010, Q1.17.3.5] to set out the extent to which it believed the proposed mitigation would reduce the visibility of the onshore substation. The Applicant responded [REP1-036] that its ES [APP-112, Paragraph 420] notes that whilst the proposed planting would grow to partially screen the buildings and lower parts of the equipment within the site, and help it become more integrated in the landscape, it would not notably reduce the scale of landscape effect over time. Taller parts of the onshore substation would remain visible above and beyond intervening vegetation, especially during the winter months when the vegetation is out-of-leaf. The Applicant noted that this was illustrated in Figures 26 - .17 to 26.35 [APP-158 to 172].
- 23.4.8. The Applicant continued to clarify its view that beyond the ZTV as expressed in its LVIA [APP-112] there would be limited or no visibility of the onshore substation due to the site's locations within the landscape and the natural topography of the proposed onshore substation site which would naturally restrict views towards the area in which the substation is located. The Applicant suggested [REP1-036, Q1.17.3.5] that these factors, in combination with proposed planting, resulted in the long-term visibility of the substation (from publicly accessible locations) being judged to be minimal.
- 23.4.9. The Applicant, in its responses to LIRs [REP2-039] noted SNC's comments expressing concern about the potential cumulative impact of the Proposed Development in combination with proposed and consented developments in the area around the Norwich Main substation. SNC highlighted the location of the Hornsea Project Three substation and Energy Balancing Infrastructure and pylons associated with the East Anglia Green development as particular concerns.
- 23.4.10. The Applicant continued in its response [REP2-039] to clarify that the Cumulative Effects Assessment (CEA) of its LVIA is set out in in the ES [APP-112, Section 26.7] and that this assessment considers both Hornsea Project Three and East Anglia GREEN in relation to the onshore substation and cable corridor, as well as Norfolk Vanguard and Norfolk Boreas in relation to the onshore cable corridor.
- 23.4.11. The Applicant's ES [APP-112, Section 26.7] has assessed that there would be potential for cumulative impact as a result of the Proposed Development in the area of the proposed cable corridor during the construction phase in combination with other projects, but that there would be little to no visibility of the cable construction works beyond the immediate context of the proposed cable corridor. The Applicant assessed that there would be the potential for cumulative impact during both the construction and operation phase for the onshore substation.
- 23.4.12. During the construction and operation phases the Applicant assessed that there would be little to no visibility of the proposed substation building (or buildings) beyond the immediate context of the Zone of Visual Influence (ZVI) [APP-112, Section 26.5.3] but that there would be potential for cumulative effects where there is an overlap of effects arising from other projects and where users of a route would see more than one project sequentially.
- 23.4.13. The Applicant's assessment of cumulative impacts [APP-112, Section 26.7.3] has concluded that the combination of landscape and visual effects from the Proposed Development and other projects are unlikely to be greater than any of the projects in isolation for the construction and operational phases of both the proposed cable corridor and onshore substation.

- 23.4.14. The ExA did not examine this matter further during the Examination. At the close of the Examination a final SoCG was signed by the Applicant and BDC [REP7-042] confirming agreement with the Applicants approach to landscape, trees and visual matters. The SoCG between the Applicant and SNC [REP7-041] noted that the LA did not agree that the CEA impacts would be non-significant.
- 23.4.15. During the second ASI [EV-028] the ExA noted that there was the possibility to view both the Norwich Main substation and the proposed onshore substation from the PRoW network and requested the Applicant provide a further illustrative viewpoint which depicts the effects on receptors on the PRoW in this location [PD-012, Q2.17.1.2]. Illustrative visualisations depicting this viewpoint were submitted to the Examination by the Applicant [REP4-025]. The ExA did not find it necessary to seek further illustrative material from the Applicant during the remainder of the Examination.

ExA's Reasoning

- 23.4.16. The ExA examined the question of the effectiveness of the Applicant's approach to the use of landscape to mitigate visual impacts related to the proposed onshore substation as an integral element of the Applicant's design approach.
- 23.4.17. The ExA notes the Applicant's finding that the height and scale of proposed substation equipment would be the main criteria which determine landscape and visual effects. The ExA agrees that it is reasonable to conclude that proposed planting would partially screen buildings and lower equipment and that these effects would be most apparent in closer views of the proposed substation site.
- 23.4.18. The ExA agrees with the conclusions expressed by SNC that if the proposed substation buildings were built at their maximum height, as assessed, then landscape and visual effects could not be fully mitigated by planting and that it would be important for the Applicant to work closely with the Local Authority (LA) to develop design proposals for the onshore substation that were of a sufficiently high standard that they would minimise any impact on the character and visual appearance of the area.
- 23.4.19. The ExA also agrees that the Proposed Development would result in adverse effects in LVIA terms but does not find that it has been presented with evidence during the Examination to demonstrate that these effects, when taken as part of a cumulative assessment alongside other proposed and consented developments, would be worse than the effects of these developments in-isolation.
- 23.4.20. This conclusion emphasises the importance of a co-ordinated and holistic design approach for elements of the Proposed Development with the greatest landscape and visual impact. Chapter 6 of this recommendation deals with the Applicant's approach to good design and within that section the ExA also concludes that the design and appearance of the structures and buildings proposed for the onshore substation and the landscape design strategy must form part of a co-ordinated design response.

The Applicant's approach to tree hedgerow removal, replanting, aftercare, management and maintenance

- 23.4.21. [EV-022] [PD-010, Q1.17.1.11], the ExA asked the Applicant to clarify its processes for identifying which trees and planting it might seek to remove. The ExA also sought to understand how the Applicant's development scenarios might affect the extent to which trees and planting would need to be removed.

- 23.4.22. In response, the Applicant noted that it had engaged in consultation with interested parties and considered a large data set which included information gathered through ecological surveys, feedback from the community, photographs and site visits[EV-022] and expanded on this response [REP1-036, Q1.17.1.11] to clarify that proposed tree and hedgerow removal will be shown in the Landscape Management Plan (LMP) and that this was secured in Requirement 11 of the dDCO [REP8-005]]. The Applicant's LMP would be submitted to the LA for approval and Natural England would also be involved should the trees or hedgerows be found to have a bat roost and a bat mitigation licence would be applied for. In the event of tree removal, the Applicant confirmed that the relevant landowner would be compensated for any losses; this commitment is secured via the dDCO [REP8-005, Article 34(2)].
- 23.4.23. The Applicant's outline LMP (Revision B) [REP1-025] notes that all proposed tree and hedgerow replanting would be shown in the final Landscape Management Plan and that these would be agreed with relevant landowners. Aftercare, management and maintenance of newly planted trees and hedgerows would be for ten years for the cable corridor and for 40-years at the Onshore Substation, this commitment is secured by R12 of the dDCO [REP8-005]. Instructions for planting and aftercare would also be included in the final Landscape Management Plan.
- 23.4.24. The ExA also asked the Applicant [PD-010, Q1.17.1.11] to provide information depicting the extent of woodland which it proposed to remove in each scenario. The Applicant responded [REP1-036] that it could not provide information showing the extent of the woodland/ trees that would be removed under the various scenarios of the Proposed Development. The Applicant explained that details were not fully known as full tree surveys along the entire route had not been undertaken and detailed designs were not available.
- 23.4.25. The Applicant did however confirm that its Arboricultural Survey Report [APP-228, Section 6] indicated some known tree removals at the current stage of the design process. The Applicant also noted that there would likely be a slightly greater arboricultural impact if both projects go ahead either sequentially or concurrently rather than just one project in-isolation.
- 23.4.26. The Applicant noted that micro-siting within these easements should be possible to weave the 3m wide trenches between trees and hedgerows. The Applicant clarified that there would be no differences in the number of works compounds needed for one project or two or the size of main and secondary compounds. The Applicant's outline LMP (Revision B) [REP1-025] also explains that should both projects go ahead, there would be a permanent easement of 20m in width where no new trees could be planted. If only one project were to go ahead the permanent easement would be 10m in width. The Applicant clarified that trees felled within this easement would be replanted within the Order Limits but outside the permanent easement so that compensation could still be achieved.
- 23.4.27. Within the same question [PD-010, Q1.17.1.11], the ExA asked the Applicant to indicate its proposed ratio for tree and hedgerow replacement. The Applicant confirmed [REP1-036] that its proposed ratio for tree and hedgerow replanting would be 1:1 and added further explanation to clarify that in this case that would mean one new tree planted to replace a felled tree and 10m of hedgerow planted to replace 10m of hedgerow removed. The Applicant submitted a revised outline LMP confirming this commitment [REP5-031], secured by R11 of the draft DCO [REP8-005]
- 23.4.28. In the ExA's first written questions (WQ1), the ExA also noted [PD-010, Q1.17.1.12] national policy within NPS EN1 sections 5.3.15 and 5.3.18 which encourages

applicants to explore opportunities for beneficial biodiversity, enhancing existing habitats and creating new habitats of value. The ExA asked the Applicant to explain how its landscape design for the Proposed Development would recreate and replace any ecological connections severed by construction of the onshore project substation and onshore cable corridor and whether there would be less connectivity than the baseline condition.

- 23.4.29. The Applicant confirmed [REP1-036] that its outline LMP (Revision B) [REP1-025] states that hedgerow breaches would be replanted post-construction, and other boundary features would also be reinstated (with the exception of tree planting directly overhead the installed cables, although tree planting is proposed elsewhere in the Order Limits). The Applicant's stated aim [REP1-036] would also be to plant new hedgerows on boundaries where there are currently none, to infill gaps in hedgerows which are current defunct (hedges with gaps) and otherwise enhance hedgerows wherever possible, such as by improving species diversity, adding hedgerow/boundary trees (outside the permanent easement) and improving management of boundary features. As a result the Applicant believes that post-construction and post-enhancement, ecological connectivity would be expected to be improved relative to the baseline, particularly in the medium- to long-terms once the enhancement and compensation features begin to mature. The Applicant also highlighted a commitment in its outline LMP that features with higher baseline connectivity values (such as woodland belts, Marriott's Way, major rivers and watercourses) would be avoided via the implementation of trenchless techniques, e.g. horizontal directional drilling (HDD), so these key connections would not be severed.
- 23.4.30. In terms of elements of the onshore works with the greater footprints, such as the onshore substation and some of the HDD entry/exit compounds, the Applicant clarified [REP1-036] that these would not have significant impacts on habitat connectivity due to their locations, which it has assessed as not affecting key connective habitat, and because of the creation of replacement, compensatory or enhanced habitats around these areas. At a site-scale (e.g. at the substation site), the Applicant confirmed that it would be feasible that individual connections could be severed (such as permanent loss of some sections of hedgerow and woodland habitat), but regardless, a net increase in connections would still be predicted due to the Applicant's proposed woodland belt planting and habitat enhancements.
- 23.4.31. At [PD-012, Q2.17.3.1], the ExA asked Interested Parties to provide further comment to confirm whether they were satisfied that the Applicant's proposals for the removal, replanting and management of existing trees and hedgerows had been set out to a sufficient level of detail during the Examination.
- 23.4.32. NNDC, [REP3-125] responded that it did not agree with the Applicant's proposed approach for a ratio of replacement tree and hedge planting will be 1:1, e.g. one new tree planted to replace a felled tree and 10m of hedgerow planted to replace 10m of hedgerow removed. NNDC confirmed that its preference would be for replacement tree planting to be equal to the lost biomass of removed trees. However, NNDC considered that for trees a 3:1 ratio would be proportionate and more feasible, whilst also contributing to the voluntary 10% Biodiversity Net Gain (BNG). With regard to hedgerows, NNDC stated that it considers that a 1.5 to 1 ratio (i.e. 15m of replacement hedgerow to replace 10m of removed hedgerow) would be proportionate, to account for establishment.
- 23.4.33. SNC and BDC in their responses, [REP3-127] [REP3-121] respectively, stated that it would be preferable for a much stronger emphasis to be placed on establishing existing trees' constraints and for the onus to be on tree retention and that removal

should be a last resort. While both LAs confirmed that the Applicant's proposed management periods would be sufficient, both also confirmed that they did not consider on a one for one basis as sufficient, because the loss of a mature tree cannot be mitigated by the planting of a single tree, both in terms of carbon sequestration and ecological value.

- 23.4.34. In responding to these issues, the Applicant [REP4-028] expanded on previous submissions to the Examination to clarify that replacement hedgerow and tree planting on a minimum 1:1 basis and details of final mitigation would be set out in its outline LMP once the pre-construction surveys have concluded. The Applicant noted that the proposed 1:1 ratio is intended to ensure no loss specifically of the number of individual trees and hedgerows. The Applicant further noted that this ratio does not account for the Applicant's commitment to secure a net gain as detailed in its outline BNG Strategy [APP-306] and Initial BNG Assessment [APP-219] with the final details forming part of the Landscape Management Plan which is secured under Requirement 11 of the dDCO [REP8-005].
- 23.4.35. While the Applicant notes that BNG is the metric by which gains would be measured, it would not necessarily require no net losses of individual habitat types, rather it assesses gains across all habitats collectively. The Applicant's position is that by committing to a parallel commitment for minimum 1:1 replanting of trees and hedgerows, it would ensure no net losses of these specific habitat types, which BNG might not achieve by itself. Without this minimum 1:1 commitment, it would be feasible for the Proposed Development to achieve biodiversity net gains but still have a net loss in the number of trees and hedgerows, whereas both commitments together would ensure net gains and no net losses of the numbers of hedgerows and trees. The Ecological Management Plan (EMP) would secure the biodiversity net gain measures included within the environmental statement and this in turn is secured by R13 (Ecological management plan) of the dDCO [REP8-005].
- 23.4.36. The Applicant's ambition is for the Proposed Development is to achieve the maximum feasible biodiversity net gain. No specific target was set by the Applicant [APP-306, Paragraph 15] because of the extensive uncertainties involved (e.g. with landowners). However, subject to landowner agreements, the Applicant considers that gains would be feasible [APP-219].
- 23.4.37. In terms of ensuring proportionate replacement of biomass, the Department for Environment, Food and Rural Affairs Biodiversity Metric (version 3.0 was used by the Applicant for the initial assessment) factors in the areas of each habitat lost and created, in order for the Applicant to give consideration to the change in biomass included in the calculation set out in the Initial BNG Assessment [APP-219].
- 23.4.38. Changes in biomass were not directly quantified by the Applicant. It believes that this would not be feasible as the volume of habitats (e.g. hedgerows, woodland etc.) is constantly changing due to management and natural processes. However, the Applicant clarified that it's use of the metric does consider Time to Target Condition and there is a Difficulty Risk Multiplier for newly created/replaced habitats, which account for the delay between habitat creation/reinstatement and the point at which that new habitat begins ecologically functioning as desired.
- 23.4.39. The Applicant noted [REP4-028] that biomass is an intrinsic aspect of these parts of the Biodiversity Metric, giving the example for hedgerow creation wherein the metric assumes a Time to Target Condition of five years (for hedgerows without trees), to account for the fact that it would generally take this length of time for a replanted hedgerow to provide the same functionality as an equivalent existing hedgerow (i.e. it

would take this amount of time for the hedgerow to grow to sufficient size/biomass to have the same function as an existing hedgerow).

- 23.4.40. The Applicant noted that its approach means that the metric requires more habitat creation to account for the time lag (plus the Difficulty in Habitat Creation issue), so overall there would be a greater requirement for habitat creation proportionate to loss. Therefore, the proportionate replacement of biomass would continue to be intrinsically considered within the Applicant's BNG assessment. It is the Applicant's position that this is an appropriate and effective tool to be used in calculating the quantum of habitats to be replaced, whilst delivering a positive biodiversity net gain alongside potential opportunities for carbon sequestration and ecological value.
- 23.4.41. Given the relative complexity of the issue of the Applicant's approach to replacement and replanting of trees and hedgerows, the ExA asked the Applicant to summarise its approach a further time during Issue Specific Hearing (ISH)7 [EV-097] and asked LAs to clarify whether they had any remaining concerns about this approach.
- 23.4.42. SNC and BDC confirmed during ISH7 [EV-097] that they no longer held concerns about the Applicant's approach. NNDC submitted a response to the Examination in lieu of attendance at ISH7 [AS-066] indicating that they too were in broad agreement with the Applicant's approach and recommending that any replacement planting be placed as close as reasonably possible to the site of any removed vegetation. The Applicant did not comment further on this matter.
- 23.4.43. At the close of the Examination, the ExA found that the Applicant's approach to tree and hedgerow removal, replanting, aftercare, management and maintenance had been set out as offering the possibility of a positive benefit as a result of the Applicant's commitment to a strategy of BNG, which is welcomed by the ExA. Final SoCGs were signed by the Applicant, BDC [REP7-042] and SNC [REP7-041] confirming agreement with the Applicants approach to replacement planting.

ExA's Reasoning

- 23.4.44. While the ExA acknowledges that LAs had an original aspiration for a fixed ratio for tree and hedgerow replacement the ExA is persuaded by the argument made by the Applicant for its approach as detailed in its outline BNG Strategy [APP-306] and Initial BNG Assessment [APP-219] with the final details forming part of the LMP, which is secured under R11 of the rDCO.
- 23.4.45. The ExA understands that the Applicant's proposal to commit to an approach which would deliver BNG alongside a parallel commitment for minimum 1:1 replanting of trees and hedgerows would ensure no net losses of these specific habitat types, which BNG alone might not achieve. The ExA further recognises that the Applicant has accounted for the greater requirement for habitat creation proportionate to loss in order to allow for the amount of time required for a new habitat to grow to sufficient size to have the same function as an existing one. On the basis of the aforementioned factors, the ExA concludes that the Applicant's case for its approach to tree and hedgerow removal, replanting, aftercare, management and maintenance is well made and agrees with the Applicant and LAs that its approach would be an appropriate and effective tool to be used in calculating the quantum of habitats to be replaced, whilst delivering a positive biodiversity net gain alongside potential opportunities for carbon sequestration and ecological value.

23.5. CONCLUSIONS

- 23.5.1. The ExA notes that the Applicant has sought to provide indicative, conservative estimates of the growth and form of proposed mitigation planting,

- 23.5.2. The ExA concurs with the Applicant's finding that the height and scale of proposed substation equipment would be the main criteria which determine landscape and visual effects. The ExA agrees that it is reasonable to conclude that proposed planting would partially screen buildings and lower equipment and that these effects would be most apparent in closer views of the proposed substation site.
- 23.5.3. However, the ExA finds that if the proposed substation buildings were built at their maximum height, as assessed, then landscape and visual effects could not be fully mitigated by planting and that it would be important for the Applicant to work closely with the LA to develop design proposals for the onshore substation which were of a sufficiently high standard that they would minimise any impact on the character and visual appearance of the area.
- 23.5.4. The ExA finds that the Proposed Development would result in adverse effects in LVIA terms but does not find that it has been presented with evidence during the Examination to demonstrate that these effects, when taken as part of a cumulative assessment alongside other proposed and consented developments, would be worse than the effects of these developments in-isolation.
- 23.5.5. The ExA takes the view, therefore, that the design and appearance of the structures and buildings proposed for the onshore substation and the landscape design strategy must form part of a co-ordinated design response that meets the requirements set out in NPS EN1 sections 5.9.8 and 5.9.16 and which has been submitted to and approved by the relevant planning authority as required by R10 and R11 of the recommended DCO.
- 23.5.6. The ExA concludes that the Applicant's case for its approach to tree and hedgerow removal, replanting, aftercare, management and maintenance is well made and agrees with the Applicant and LAs that its approach would be an appropriate and effective tool to be used in calculating the quantum of habitats to be replaced, whilst delivering a positive biodiversity net gain alongside potential opportunities for carbon sequestration and ecological value.
- 23.5.7. The ExA concludes, therefore, that the tree and hedgerow removal, replanting, aftercare, management and maintenance strategy proposed by the Applicant would meet the requirements set out in NPS EN1 Paragraphs 5.9.16 and 5.9.23. In addition, the ExA notes that the Applicant's approach to BNG, although not yet required by national policy, has the potential for positive benefit as a result of the Proposed Development.
- 23.5.8. Taking all of this into account, the ExA finds that there would be some inevitable impact on landscape and visual resources alone and cumulatively as a result of the Proposed Development and it considers that overall these would carry minor weight against the case for the Proposed Development for all Development Scenarios.

24. CONSTRUCTION EFFECTS – ONSHORE

24.1. BACKGROUND AND POLICY CONTEXT

- 24.1.1. Onshore construction effects were identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development in terms of Development Scenarios, approach to construction, human health, air quality and waste management.
- 24.1.2. The onshore construction effects in relation to traffic and transport, noise and vibration, land use, onshore habitats and ecology (including from air emissions), onshore historic environment and cultural heritage, landscape and visual effects, socio-economic effects and water quality and resources are considered in relevant Chapters of this Recommendation Report. This Chapter considers all other onshore constructions matters. However, it does draw on the findings of other Chapters where relevant.
- 24.1.3. Although this chapter of the Recommendation Report is primarily considering construction effects, it does also consider some related operational effects, including Electro-Magnetic Fields (EMF), noise and wider societal benefits during operation. Employment effects, including those from construction and operation are considered in Chapter 25 of this Recommendation Report.

National Policy Statement

- 24.1.4. The Infrastructure Planning (Environmental Impact Assessment (EIA)) Regulations 2017 requires an EIA development to submit an Environmental Statement (ES) with a description of the physical characteristics of the whole development, land-use requirements, and expected residues and emissions that would be produced during the construction and operation phases. It also requires a description of the likely significant effects of the development on the environment resulting from the construction of the development (EIA Regulations, Schedule 4, Paragraphs 1 and 5).
- 24.1.5. The assessment of matters considered under onshore construction effects as set out in the Overarching National Policy Statement for Energy (NPS EN1), National Policy Statement for Renewable Energy Infrastructure (NPS EN3) and National Policy Statement for Electricity Networks Infrastructure (NPS EN5) requires the Applicant to assess:
- environmental, social and economic effects (NSP EN1, Paragraph 4.2.3)
 - the potential for insect infestation and emissions of odour, dust, steam, smoke and artificial light to have a detrimental impact on amenity (NPS EN1, Paragraph 5.6.4);
 - health impacts, including cumulative effects from multiple projects (NPS EN1, Paragraph 4.13.2);
 - any significant air emissions, their mitigation and any residual significant emissions from any road traffic generated by a project (NPS EN1, Paragraph 5.2.7); and
 - arrangements that are proposed for managing waste produced in order to minimise the volume of waste produced and the volume of waste sent for disposal, unless it can be demonstrated that it would be the best overall environmental outcome and to prepare a Site Waste Management Plan (NPS EN1, Paragraph 5.14.6).
- 24.1.6. In reaching a decision the SoS should be satisfied that:

- an assessment of construction effects, such as from artificial light and dust has been carried out and that all reasonable steps have been taken to minimise any such detrimental impacts (NPS EN1, Paragraph 5.6.7);
- health effects have been identified and measures to avoid, reduce or compensate for these impacts, as appropriate, have been identified (NPS EN1, Paragraph 4.13.2);
- air quality considerations have been given substantial weight where a project would lead to a deterioration in air quality, even if this does not lead to any breaches of national air quality limits (NPS EN1, Paragraph 5.2.9);
- consideration has been given to whether mitigation measures would be needed both for operational and construction air emissions, through a construction management plan and measures to mitigate air emissions from transport (NPS EN1, Paragraphs 5.2.11 and 5.2.13);
- the Applicant has proposed an effective system for managing hazardous and non-hazardous waste arising from the construction, operation and decommissioning of the Proposed Development (NPS EN1, Paragraph 5.14.7);
- there is awareness of the effects of the cable if the route for the cable from the wind farm to the onshore substation is known (NPS EN3, Paragraph 2.6.37); and
- the proposal is in accordance with International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines which give an electric field reference of 5kVm⁻¹ for the general public (NPS EN5, Section 2.10).

Other Legislation and Policies

- 24.1.7. Other legislation, policies and guidance relevant to this chapter is set out in ES Chapter 22 Air Quality [APP-108, Section 22.4.1] and Chapter 28 Health [APP-114, Section 28.4.1]. The Planning Statement [AS-031] includes an overview of national, regional and local planning policies and key legislation and policy is set out in Chapter 3 of this Recommendation Report.

24.2. THE APPLICATION

Environmental Statement

- 24.2.1. The Applicant's assessment of the matters relevant to this section is set out in the ES in Chapter 22 Air Quality [APP-108] and Chapter 28 Health [APP-114]. Other application documents that are relevant include Chapter 4 Project Description of the ES [APP-090], appendices to ES Chapter 22 [APP-259 to APP-263], appendices to ES Chapter 28 [APP-279] [APP-280] and the Outline Code of Construction Practice (OCocP) [APP-302]. It should be noted that the Health chapter of the ES [APP-114] does draw on the overlapping effects of these receiving environments.

Scope and Methodology

- 24.2.2. The Applicant's assessment [APP-108] of potential air quality impacts associated with construction phase dust and fine particulate matter emissions was undertaken in accordance with the latest Institute of Air Quality Management (IAQM) guidance, 2016. This assesses human receptors within 350 metres (m) of the onshore Order limits, within 50m of routes used by construction vehicles (for routes used by construction-generated traffic up to 500m from the onshore Order limits).
- 24.2.3. A qualitative assessment of project generated Non-Road Mobile Machinery (NRMM) used during construction of the onshore cable corridor and/or onshore substation has been undertaken by the Applicant, which considered: the number and type of plant to be used; working hours to be employed and the duration of works; distances from NRMM to the nearest receptors; existing air quality conditions in the area; and

prevailing meteorological conditions. This assesses human receptors within 200m of construction works.

- 24.2.4. The Applicant has considered the requirement for a detailed air quality assessment of construction vehicle exhaust emissions at human receptors using screening criteria provided by IAQM and Environmental Protection United Kingdom 2017 (EPUK2017). This assesses human receptors within 200m of roads used by the Proposed Development.
- 24.2.5. The same matters were assessed for cumulative effects with other projects. In addition, the worst-case scenario depends on the impact being assessed, as set out in the ES [APP-108, Table 22.2].
- 24.2.6. The Applicant's overall air quality assessment methodology was agreed with the Environmental Health Officers at North Norfolk District Council (NNDC), Broadland District Council (BDC) and South Norfolk Council (SNC). Operational impacts on air quality have been scoped out [APP-108, Paragraph 3].
- 24.2.7. In relation to health, the Applicant's assessment [APP-114] uses study areas to broadly define representative population groups, relevant to determining sensitivity, rather than to set boundaries on the extent of potential effects. This includes site-specific; local (NNDC, BDC and SNC), regional (Norfolk County), national (England); and international. The methodology adopted uses the emerging best practice by Institute of Environmental Management and Assessment (IEMA), Cave et al. 2017, International Association of Impact Assessment (IAIA) & European Public Health Association (EUPHA), 2020, Public Health England (PHE), 2020 and Institute of Public Health (IPH), 2021.
- 24.2.8. To take account of potential inequalities, where appropriate, conclusions on a particular health issue has been reached for more than one population. For example, one conclusion for the general population (or for a defined area) and a second separate sub-population conclusion for relevant vulnerable group (as a single defined class of sensitivities for that issue).
- 24.2.9. The health assessment [APP-108] considers the construction effects on health from noise, air quality, ground and/or water contamination, physical activity and journey times and/or reduced access. Further, it assesses operational health effects from noise and considers wider societal benefits. The same matters were assessed for cumulative effects with other projects. The health assessment [APP-108] draws on the related Chapters for the worst-case scenario, as identified in the ES [APP-108, Table 28-4].
- 24.2.10. The Applicant's overall health assessment methodology has been agreed with Norfolk County Council's (NCC) Public Health team [APP-114, Section 28.4.3.4].
- 24.2.11. In terms of EMF, the Applicant's assessment [APP-279] sets out that the calculation of fields follows the provisions specified in the Department of Energy and Climate Change, Power Lines: Demonstrating Compliance with EMF Public Exposure Guidelines, A Voluntary Code of Practice, 2012.

Applicant's Assessment of Effects and Proposed Mitigation

- 24.2.12. The Applicant's proposed embedded mitigation that is relevant to the matters covered in this Chapter is summarised in the ES [APP-108, Section 22.3.3] [APP-114, Section 28.3.5]. Embedded mitigation specific to the onshore construction effects has been secured through the OCoCP [APP-302], Schedule 2, Part 1, Requirement (R) 19 of the draft Development Consent Order (dDCO) [APP-024].

- 24.2.13. Additional Mitigation specific to the onshore construction effects has been secured through:
- the Construction Traffic Management Plan (CTMP) [APP-301], Schedule 2, Part 1, R15 of the dDCO [APP-024];
 - the construction hours, Schedule 2, Part 1, R20 of the dDCO [APP-024]; and
 - the control of artificial light emissions, Schedule 2, Part 1, R22 of the dDCO [APP-024].
- 24.2.14. The Applicant's conclusion in the ES [APP-108] states that the residual adverse effects of the Proposed Development on air quality matters considered in this chapter are not significant for construction dust and fine particulate matter, NRMM emissions and construction road vehicle exhaust emissions. The same conclusions are also made for cumulative effects with other projects.
- 24.2.15. In terms of health, the Applicant finds [APP-114] that there would be effects of minor adverse significance (not significant in EIA terms) on health during construction from: noise, air quality, ground and or groundwater contamination effects, physical activity effects and journey time and/or reduced access effects. The Applicant [APP-114] finds not significant effects from operational noise and minor wider societal benefits during operation. The cumulative assessment reaches the same conclusions, except in relation to wider societal benefits where a moderate beneficial effect is found. The assessment [APP-114] also finds that there would be no effect on health from EMF during operation.

24.3. LOCAL IMPACT REPORTS

Broadland District Council and South Norfolk Council

- 24.3.1. The Local Authorities (LA) [REP1-066] [REP1-090] both consider that issues relating to air quality, artificial light, and working hours are adequately covered by the requirements in the dDCO.

North Norfolk District Council

- 24.3.2. NNDC [REP1-082] set out that it has no concerns with regard to air quality.

Norfolk County Council

- 24.3.3. NCC [REP1-080] believe the assessment methodology for the Health Impact Assessment is appropriate and based on best practice and agrees that there are unlikely to be any significant, long term adverse health impacts from the proposal compared to baseline conditions.
- 24.3.4. NCC would like the Applicant to include further mitigation measures to address any adverse impacts on mental health, especially given the potential length of construction works. NCC are of the view that the Applicant should increase the involvement of local communities to plan for: how disruption of the natural environment and its impacts on mental health can be minimised; how current levels of physical activity can be maintained and improved through provision of information around alternative undisturbed routes on land; how any perceived or real water pollution at sea would be managed; and how information on EMFs are communicated to the public to reduce the stress, uncertainty, and associated mental health impacts in clear and non-technical ways.
- 24.3.5. Some specific concerns in relation to Chapter 28 Health of the ES [APP-114] were also raised:

- there is evidence to suggest that cold related deaths are unlikely to significantly decrease due to a warming climate;
- Paragraph 128 does not consider changing working patterns with increased numbers of people working from home;
- impacts of air quality should include adverse impacts on pregnant women in Paragraph 185 as there is evidence that poor air quality adversely impacts birth weight;
- Paragraph 186 states the key health outcomes affected by air quality are cardiovascular diseases and asthma. Lung cancer and type 2 diabetes are also key health outcomes related to air quality;
- any potential contamination of water quality during construction (paragraph 216) may impact physical activity behaviours even if works are conducted out of season; and
- health outcomes related to reduced physical activity (paragraph 231) should include type 2 diabetes, unhealthy Body Mass Index, stroke and musculoskeletal conditions.

24.4. THE EXAMINATION

24.4.1. Issues emerging during Examination that the Examining Authority (ExA) has examined, considered and concluded on are:

- 1) Development Scenarios and the construction programme;
- 2) pre-commencement works;
- 3) the approach to construction, including cable corridor width and compound selection;
- 4) the effect of construction works on human health, including assessment methodology, vulnerable groups, EMFs, mental health and effective communication, ambulance service and cumulative effects;
- 5) effects on air quality; and
- 6) waste management practices.

Development Scenarios and Construction Programme

24.4.2. The Proposed Development consists of four potential Development Scenarios that could be delivered, which are set out in the Scenarios Statement [APP-314]. In addition, Scenario 1 has four potential sub-scenarios. From the outset of the Examination, the ExA explored whether the ES had suitably assessed these Development Scenarios, including the worst-case for each topic area.

24.4.3. The ExA asked [EV-019] [EV-023] [PD-010, Q1.6.1.2] the Applicant whether the dDCO [AS-009] allowed the construction of both SEP and DEP in-isolation of each other, but with some construction cross over period and if so, how this had been assessed in the ES.

24.4.4. The Applicant identified [EV-019] [EV-023] [REP1-036, Q1.6.1.2] that there could be up to a four year gap between construction start dates for Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) when constructed sequentially and conceivably, within the sequential scenario, construction of the second project could start within the four year gap. This could result in one project being at the end of construction and the other starting again at landfall with a shorter overall construction programme. Further, the Applicant explained that the ES was prepared on the basis of a worst-case scenario for each topic. This considered the following construction phase envelopes:

- build SEP and DEP sequentially with a gap of up to four years between the start of construction of each Project, reflecting the maximum duration of effects; and

- build SEP and DEP concurrently, reflecting the maximum peak effects.
- 24.4.5. The Applicant also explained [EV-019] [EV-023] [REP1-036, Q1.6.1.2] that whatever phasing of construction is progressed would fall within the assessed envelope. In addition, if cable crews are working at either end or different points of the cable corridor, then the scale of the impacts would be no greater than the maximum peak effects and within the maximum duration of effects, both of which have been assessed. The Applicant therefore considered that a potential overlap in construction crews, working at either end or at different points along the cable corridor is assessed within the ES.
- 24.4.6. The ExA asked [EV-057] [EV-061] [PD-012, Q2.6.1.2 and Q2.6.1.4] the Applicant to provide further evidence to demonstrate if SEP and DEP were developed wholly separately but concurrently, there would not be greater effects than those assessed in the ES. In addition, the ExA noted that it understood from the Applicant that the ES assumes there would be a maximum of ten construction crews working along the onshore cable corridor at any one time. The ExA subsequently asked the Applicant to explain where in the ES this was described and controlled and whether to avoid any potential effects that had not been assessed, if the dDCO should secure this maximum number. At this time, the ExA also asked about the assumptions around the modelling for traffic and transport, which is covered in Chapter 18 of the Recommendation Report.
- 24.4.7. The Applicant provided supplementary information to the Scenarios Statement [REP3-074] in response. This set out, in summary, that [EV-057] [EV-061] [REP3-110]:
- in the event that SEP and DEP were constructed concurrently (under Scenario 1d) there would need to be a significant degree of co-ordination between the projects;
 - the drafting of the Development Scenarios definitions and the works descriptions in Schedule 1 of the dDCO have been carefully considered by the Applicant such that the dDCO ensures that it would not be possible for SEP and DEP to undertake concurrent construction of the onshore cable corridor acting as wholly independent projects;
 - the reference to the word "*separate*" in the Scenario 1 definition was included as a contrast to the concept of the integrated transmission system, which is provided for under Scenarios 3 and 4. In reality, reference to the word 'separate' in the Scenario 1 definition could be removed and this would not change what can be delivered under the dDCO, in accordance with the works descriptions in Schedule 1 and the Works Plans; and
 - to be able to come forward as entirely independent projects in a concurrent scenario, each project would need to have had its own main construction compound, separate haul roads and separate substation areas without overlapping works. The works descriptions and the Order limits simply do not provide for this in any scenario.
- 24.4.8. In relation to working crews, the Applicant advised [REP3-101, Q2.6.1.4] that this is set out in the ES [APP-090, Table 4.32 and Paragraph 278] and the ES further considers this assumption within the various topics as set out within the respective 'Realistic Worst-Case Scenario' tables. The Applicant was of the view that the ES has assessed the potential impacts and relevant mitigation is appropriately secured through the dDCO via R15 Traffic and Transport and R19 OCoCP. The Applicant did not consider it necessary to include any further controls.
- 24.4.9. Following these responses, the ExA requested [PD-018, DC1.2.1.3] that the Applicant remove the word 'separately' from the definition of Scenario 1. The ExA

also advised [PD-018, DC1.6.1.1] that it still had concerns that the adverse effect of construction works that could potentially be undertaken on the same section(s) of the cable corridor by separate crews, constructing SEP and DEP projects under Scenario 1d, had not been assessed in the ES and therefore it was minded to propose an additional paragraph to R1 of the dDCO that secured a restriction that separate working crews cannot work on the same or adjacent section(s) of the onshore cable corridor.

- 24.4.10. In its response [REP5-051, DC1.2.1.3], the Applicant provided a revised version of the dDCO [REP5-005] that removed 'separately' from the definition of Scenario 1 in Article 2 and in Schedules 10 to 13 of the dDCO. In addition, the Applicant set out that to better reflect and secure the co-ordinated working referred to in the Scenarios Statement [APP-314, Section 8.3], the dDCO [REP5-005] had been amended to include an onshore collaboration requirement at R33 in the event of Scenarios 1c, 1d or 2 came forward.
- 24.4.11. In relation to working crews, the Applicant remained of the view [REP5-051, DC1.6.1.1] that it had assessed the worst-case and that the dDCO included adequate controls to monitor and manage impacts. The Applicant also added that it would operate an Environmental Management System which includes the preparation and implementation of a programme of environmental monitoring and auditing to ensure that environmental standards and commitments are being adhered to during construction and this would include any impacts arising from working crews operating simultaneously. The Applicant concluded that it was not necessary, appropriate or workable to include a restriction on working crews and this could potentially have an unintended impact on the desired collaborative working between construction crews in Scenarios 1c, 1d and 2 where construction relies upon shared accesses, compounds and haul roads.
- 24.4.12. On a related matter, the ExA asked [EV-035] [EV-040] [PD-012, Q2.6.2.3] the Applicant to clarify whether other trenchless crossing techniques could be used as well as Horizontal Directional Drilling (HDD) and whether this had been assessed in the ES. In response, the Applicant explained [EV-035] [EV-040] that the ES had assumed HDD would be used and provided a revised dDCO [REP3-009] that altered the definition of HDD to ensure no other techniques could be used.

ExA's Reasoning

- 24.4.13. The Applicant has provided further explanation throughout the Examination in relation to concerns of the ExA in relation to how the ES has assessed the proposed Development Scenarios with regard to the worst-case for each topic area.
- 24.4.14. Following the explanation and justification provided, particularly within the supplementary information to the Scenarios Statement [REP3-074], along with changes that the Applicant has made to the dDCO (amendments to the definition of Scenario 1 in Article 2 and insertion of the collaboration requirement at R33), the ExA is satisfied that SEP and DEP could not be delivered entirely independently of each other. Further, given the need for shared facilities such as construction compounds and haul roads, the ExA accept that two separate construction crews could not practically work on the same section of cable corridor at the same time.
- 24.4.15. Having regard to this and with the exception of Traffic and Transport, which is covered in Chapter 18 of the Recommendation Report, the ExA is content that the ES has appropriately assessed the Development Scenarios that could come forward, including the worst-case for each topic area.

Pre-commencement Works

- 24.4.16. The ExA noted that the definition of “*commence*” in the dDCO [APP-024] excluded several activities, and Code of Construction Practice (CoCP) would control activities after commencement in line with R19. The ExA asked the Applicant to explain how those excluded activities would be controlled, monitored and mitigated, given the CoCP would not be approved and enforceable (in line with R19) when the works excluded from the definition of commence may need to take place. The ExA also asked the LA if they had any concerns that the excluded activities, which included diversion and laying of services, the erection of any temporary means of enclosure, and the erection of welfare facilities, could be delivered without any controls. The ExA asked the Applicant and LAs to consider if there was a need for a definition for pre-commencement works and an accompanying management plan [PD-010, Q1.11.2.2] [EV-005, 13i].
- 24.4.17. The Applicant responded that a number of dDCO Requirements included pre-commencement controls including R13(2) (Ecological Management Plan), R15(4) (Traffic and Transport) and R18 (Onshore Archaeology). The Applicant reported that at discussions with the relevant LAs, it was found that discharge of numerous pre-commencement plans in an Order can be overly burdensome, especially given many of these would not be classed as development and would not need controls under other regimes such as TCPA1990. This included examples, such as non-intrusive surveys, erection of welfare facilities subject to removal of any temporary structures and re-instatement of adjoining land and the laying and diversion of services. The Applicant did not think that a definition for pre-commencement works and an accompanying management plan was necessary [REP1-036, Q1.11.2.2] [EV-022] [EV-026] [REP1-032].
- 24.4.18. NCC confirmed that its Highways team was satisfied that the relevant processes were covered and controlled, however it did want to be a consultee in R19 [REP1-079, Q1.11.2.2]. NH also asked to be included as a consultee in R19 [EV-022] [EV-026]. The Applicant agreed to include NCC as a consultee in R19, but did not think this would be necessary for NH, given NH was a consultee in R15 with respect to the approvals for Construction Traffic Management Plan (CTMP), and adequate controls for the benefit of NH were being sought through the Protective Provisions (PP) [EV-035] [EV-040] [REP3-109]. The ExA explored this further with NH, who stated that given PPs had not been agreed with the Applicant, NH would require to be consultee in R19. NH did however, acknowledged that most of the controls relevant to NH would be covered in CTMP secured through R15 [REP7-104]. The Applicant maintained its position, that the controls sought by NH would be adequately controlled through the PPs proposed by the Applicant [REP8-054, 4.11.3.1].
- 24.4.19. The ExA explored further and asked parties if pre-commencement activities were adequately controlled through the amended wording in R19 [PD-012, Q2.11.2.2] [EV-029, 4iii].
- 24.4.20. The Applicant provided a table setting out how each of the pre-commencement activities would be controlled, and where such controls were not required, citing reasons. Additionally, the Applicant proposed several amendments and additions to the dDCO to further secure controls for pre-commencement works, including [REP3-101, Q2.11.2.2] [REP3-103, Appendix B.11]:
- 1) inclusion of the definition of “*pre-commencement works*” and corresponding amendment to the definition of “*commence*” in Article 2;
 - 2) amendments to R13(2) in relation to controlling pre-commencement site clearance;
 - 3) including a definition of “*intrusive*” corresponding to R18, and added subparagraph (6) to R18 to confirm that for the purposes of R18 “*commence*”

includes intrusive archaeological investigations so that a Written Scheme of Investigation (WSI) would be required before intrusive archaeological investigations take place;

- 4) addition of R32 Contaminated land and groundwater scheme, which would require approval of a scheme by the relevant LA in consultation with the EA, for any remedial work and onshore works in respect of any ground contamination or other adverse ground conditions; and
- 5) addition of sub-paragraph 19(4) requiring approval of a plan by the relevant LA, for pre-commencement screening and fencing works, and inclusion of NCC as a consultee.

24.4.21. BDC confirmed that it was content with the Applicant's proposed amendments to the dDCO. No other LAs commented further. The matter between the Applicant and NH relating to R19 remained unresolved.

ExA's Reasoning

24.4.22. The ExA agrees with the Applicant that activities that are not classed as development and do not require controls or permission under TCAP1990, should not require controls in the dDCO either. However, the ExA was not convinced that this exclusion applied to all activities excluded from the definition of "commence" in the initial draft of the dDCO. In that regard, in agreement with BDC and in the absence of any further objections from NCC or any of the LAs, the ExA finds that Applicant's controls secured through the additions in Article 2 and R32, and amendments to R13, R18 and R19 are robust and adequately secure controls to relevant pre-commencement activities. The ExA has taken forward all these changes in the rDCO.

24.4.23. Despite the lack of agreement between the Applicant and NH on the drafting of the PP, the ExA is not convinced that NH needs to be a consultee in R19, given NH has admitted that all the controls relevant to it are secured through R15. The ExA does not propose any amendments to R19 in that regard.

Approach to Construction

Onshore Cable Corridor Width

24.4.24. The Project Description in the ES [APP-090] notes that the working easement is expected to be narrower than the width of the Order Limits (60m). It would be approximately 27m for a single project, 38m for two projects concurrently, and approximately 45m for two projects sequentially. It is set out that this is to allow room for micro-siting during detailed design, and for onward connection to the existing surface water drainage network for the proposed construction drainage. Further, the Order Limits include a 100m corridor width where trenchless crossings are proposed to be used.

24.4.25. The ExA asked [EV-019] [EV-023] [PD-010, Q1.6.2.2 and Q1.6.2.3] the Applicant to provide more justification for the onshore cable corridor width in the Order Limits. The Applicant confirmed [EV-019] [EV-023] [REP1-032] [REP1-036, Q1.6.2.2 and Q1.6.2.3] that:

- Its general approach to the selection of the cable corridor has been to consider features on the land that the Applicant may need to micro-site around. For example, topography, trees, hedgerows and local features.
- The difference between the widths of the working easements and the Order Limits is to allow for micro-siting needs as a further mitigation of impacts to local features.

- Each trenchless crossing would require individual design, based on length of the crossing, depth, and ground conditions. There are different cable configurations and the Applicant has accounted for what is called a flat formation where each of the cables from each of the circuits are separated. Since each circuit is composed of three cables that gives a total of 6 drills in one trenchless crossing. Phase separation per circuit can be up to 10m with the facility for 1 spare duct per circuit giving a measurement from end duct to end duct of 70m. 15m either of outside ducts would allow for equipment setup and storage. A graphic to show this was also provided [REP1-037, Appendix A.5].

24.4.26. The Applicant also reiterated the explanation in the Project Description [APP-090, Paragraph 283] that to minimise the impacts of crossing sensitive features such as hedgerows and watercourses, the working width would be reduced to the haul road and cable trenching areas only (approximately 20m). The ExA enquired [EV-019] [EV-023] [PD-010, Q1.6.2.2] that if it is possible to reduce the cable corridor to 20m in sensitive locations, could this not be considered across the whole corridor with top-spoil and sub-soil storage areas at intervals along the corridor and also if such a reduction in width had been factored into the Order limits.

24.4.27. The Applicant responded [EV-019] [EV-023] [REP1-032] [REP1-036, Q1.6.2.2] by identifying that exact locations of the crossing of such features would not be known until detailed design. Further, using storage areas at regular intervals for topsoil and subsoil would result in higher impacts through increased potential for soils to become compacted and for soil structure to deteriorate during construction works and increase traffic movement, with subsequent impacts on noise and air quality.

24.4.28. The ExA sought [PD-012, Q2.6.2.4] more information on the rationale for separating out the cables into eight ducts and examples of other projects that have adopted a similar approach to using multiple separate ducts. The Applicant explained [REP3-101, Q2.6.2.4] that the rationale for separating out ducts at crossings is predominantly led by the cable system design to manage the dissipation of heat. But also that construction risk is a factor as not all ground conditions are suited to larger diameter bores required for trefoil solutions. The Applicant also listed [REP3-101, Q2.6.2.4] several other projects where cable separation at the trenchless crossings had been undertaken.

ExA's Reasoning

24.4.29. Having considered the further justification provided by the Applicant in relation to why it is seeking a 60m corridor width for trenched crossings and a 100m width for trenchless crossings, the ExA is satisfied that these widths are justified and are necessary for micro-siting and variations in cable design.

Construction Compounds

24.4.30. The ES [APP-090] sets out that one main construction compound and eight secondary compounds would be needed. The ExA asked [PD-010, Q1.6.2.4] the Applicant to describe how the number and the locations of the primary and secondary construction compounds were chosen, how their sizes were estimated and what efforts were made to minimise their number. The Applicant's response [REP1-036, Q1.6.2.4] can be summarised as:

- 1) The most efficient delivery strategy for linear cross-country, underground cable projects is to establish construction compounds and laydown areas at semi-regular intervals strategically located along the cable route. This allows the construction managers, logistic operatives and site foreman to effectively organise deliveries and ensure a consistent supply of consumables to work areas.

- 2) Based on the proposed work activities and construction program, a secondary construction compound located in close proximity to an access bellmouth every 5-10 kilometres (km) along the cable route would provide an effective delivery and compound strategy. These are required to reduce the necessary storage capacity of the main compound and reduces the delivery times when relocating plant, material and labour from the main compound to the work site particularly for works around the substation and landfall which would be 30+ linear kms away from the main compound.
- 3) In addition, three Concrete Batching System (CBS) plants suitably spaced, with one CBS plant at the main compound, and one in the north and south of the scheme is the optimum CBS supply strategy during construction.
- 4) The main compound is located close to an A-road with good access to the strategic road network and in close proximity to the construction easement and long HDD. The location is also situated centrally along the cable route (i.e. midway between the landfall at Weybourne and Substation at Norwich).
- 5) The size of the compounds has been influenced by the need to accommodate: topsoil bunds; fencing; welfare facilities (small canteen, toilets, drying room, security cabin); parking; telehandler or tracked excavator with lifting forks to facilitate the loading/unloading of materials & equipment; a storage area for ducting, cable tiles, fencing, plant, waste skips etc; and in some cases a CBS plant.

ExA's Reasoning

- 24.4.31. Having regard to the further justification provided by the Applicant, the ExA finds the Applicant's approach to the number and location of construction compounds is sound. The ExA is persuaded that the Applicant's approach here has sought to optimise efficiency and minimise impacts from construction works on the surrounding area.

Weybourne Woods

- 24.4.32. A written representation [REP1-166] stated that there are plans for a new retirement home and an extension to the Weybourne Forest Lodge Holiday Park where the onshore cables would pass beneath. It was also suggested [REP1-166] [REP1-170] that the cable corridor should have taken an alternative route. The Applicant responded [REP2-017] by referring to Chapter 3 of the ES [APP-089, Section 3.9.3.2] that states the cable route under Weybourne Woods was selected over alternatives because:

- it avoids using open cut installation requiring an extended closure of Sandy Hill Lane;
- it avoids an open cut installation through the woodland resulting in more widespread tree loss and a greater impact to ecological receptors and recreational users;
- it is the most direct and shortest route, minimising the overall footprint and the number of receptors that would be impacted; and
- it is technically feasible whilst maximising the distance to the nearest receptors.

- 24.4.33. The ExA [PD-012, Q2.6.2.6], asked for the Applicant's view whether the Proposed Development would stop the retirement home development from coming forward. In response [REP3-101, Q2.6.2.6], the Applicant noted it had requested further information from the IP but had not received a location plan confirming the location nor details of designs of any such building, nor have any plans showing the location of an extension to Weybourne Forest Lodge Holiday Park. The Applicant noted that the compulsory acquisition powers that are being sought would create restrictive covenants that would prevent any buildings being constructed over the permanent

easement for the cables. An update on discussions was requested by the ExA [PD-017, Q3.6.2.2] but the Applicant confirmed [REP5-049, Q3.6.2.2] no further information had been received.

ExA's Reasoning

- 24.4.34. The ExA see no reason to disagree with the Applicant's assessment of alternative routes and consider the selected route to be appropriate given the other constraints in the area and the benefits it has over the other options considered. Further, the ExA has been provided with little in the way of detail that the future developments referred to by the landowners are being progressed. Consequently, the ExA is unable to give any further consideration to the representation or weigh it against the Proposed Development.

Human Health and Well-Being

Assessment Methodology

- 24.4.35. Corpusty and Saxthorpe Parish Council (Corpusty and Saxthorpe PC) has raised concerns [EV-009] [EV-010] [REP1-073] about the health and well-being of affected populations. It is of the view that there are inadequate compensatory arrangements, as a result of poorly designed research on the health and well-being effects of the Proposed Development, along with methodological shortcomings in the ES [APP-114]. The reasons that Corpusty and Saxthorpe PC has taken this view can be summarised as:
- 1) Little of the evidence in the ES is indicative of serious consideration of the Proposed Development's effects on the health and well-being of the affected populations.
 - 2) The Applicant's assessment did not follow concepts and methods set out in certain academic papers and models.
 - 3) The data collection methods were biased and inadequate.
 - 4) The entire approach, which claims to deal in evidence is really making claims about what is known about very large populations in ways which are derived from high level policy documents or are concerned with very local design issues.
 - 5) Failure by the Applicant to deploy proper expertise when undertaking the assessment.
 - 6) The Statement of Community Consultation was inadequate in relation to understanding issues of the impact of the Proposed Development on health and well-being in the geographical areas affected by the proposed project.
 - 7) Referred to remarks made by Professor John Glasson in a paper, published in 2022, concerning assessment of impact of offshore wind farms, which Corpusty and Saxthorpe PC consider support its views.
- 24.4.36. Corpusty and Saxthorpe PC also asked [REP1-073, a to n] a number of questions in relation to these matters. This included: matters and clarifications about the assessment; consultation; effects on ambulance response times (considered further below) effects on traffic (considered under Chapter 18 of the Recommendation Report); air quality (considered below under air quality); seeking information about numbers of social scientists and/or public health scientists that were employed and their experience; information on budgets spent; and seeking justification for the approach to compensation, including the budget.
- 24.4.37. The Applicant responded [REP2-043] to these concerns by setting out that it does not accept that cynicism plays any part in the assessments, which has been undertaken proportionately, consistently and transparently, in line with an approach agreed with local stakeholders, including the Public Health Team at NCC, that aligns with national

and international good practice. The Applicant also noted that the assessment of human health [APP-114] has not been approached from an economic/project planning perspective, but is based on the requirements of UK legislation, policy and guidance, as set out in the ES [APP-114, Section 28.4.1]. The Applicant noted that NCC has set out that there are unlikely to be any significant, long term adverse health impacts from the proposal compared to baseline conditions [RR-064, Paragraph 10.1].

24.4.38. The Applicant also provided its justification to the Interested Party's (IP) critique of the methods used by the Applicant in the context of the academic papers and asserted that the assessment is of a high quality and experienced and competent EIA consultants were appointed and further details were provided in this regard.

24.4.39. The ExA explored the appropriateness of the Applicant's assessment [EV-035] [EV-040], who added [REP3-109] to the above points:

- the approach to defining and then assessing health and well-being has been informed by PHEs S42 response;
- PHE provided guidance on health impact assessments (see PHE's Health Impact Assessment in spatial planning: a guide for local authority public health and planning teams) and it is appropriate that the Applicant follows their guidance;
- acknowledged that different approaches can always be taken when assessing human health and well-being;
- noted that the diagram in Plate 28.1 of the ES [APP-114] is a model of health and well-being which establishes how health is defined. It is not intended to consider the specific impacts of this development; and
- the approach takes a model of health as set out in the constitution of the World Health Organization and this approach identifies how health is affected by determinants of health which are each considered in turn.

24.4.40. Corpusty and Saxthorpe PC responded [EV-074] [EV-075] [REP3-123] that it was not satisfied with the Applicant's response as it did not provide a point by point reply to the critique or answered its questions. The response also noted that the Applicant's assessment has not demonstrated compliance with UK Government's Green Book. Further, concern was raised that the Applicant had not produced any evidence of consultation or minutes of the meeting with NCC where the approach to the assessment was agreed.

24.4.41. The ExA asked [PD-012, Q2.6.4.2] for the meeting notes between the Applicant and NCC to be provided. Further, the ExA requested the Applicant respond to the concerns of Corpusty and Saxthorpe PC in relation to the adequacy of consultation [PD-012, Q2.6.4.3]. The minutes were subsequently provided [REP3-103, Appendix B.8], which contained notes of NCC's endorsement. In addition, the Applicant responded that consultation had been comprehensive in line with the requirements of the Planning Act 2008 and noted that the application had been accepted for Examination by the Planning Inspectorate.

24.4.42. The ExA also asked [PD-012, Q2.6.4.5] the Applicant to respond to the questions raised by Corpusty and Saxthorpe PC [REP1-073, a to n]. In responding to these questions and during its response to Corpusty and Saxthorpe PC post hearing submissions, the Applicant added [REP3-103, Appendix B.3] [REP4-040]:

- 1) The assessment complies with the EIA Regulations where impacts are identified, specified and considered over time and mitigation is identified. This is the same structure as identified in Corpusty and Saxthorpe PC comments [REP1-073] but applied to likely significant effects and not to costs.

- 2) It proactively informed selected "hard to reach" groups of the consultations, including charities, schools, and community groups;
- 3) Neither cost and budgetary information nor number of social scientists working on the project or details of individuals' curricula vitae are considered relevant as these would not change the results of the assessments that were completed;
- 4) NPS EN1 requires the Applicant to set out information on the likely significant social and economic effects of the development, which has been undertaken.
- 5) Any mitigation measures proposed and associated costs are derived from assessment set out within each individual topic areas in the ES. Where a residual impact exists, suitable mitigation measures are proposed, normally in consultation with the stakeholders affected. Mitigation is thus impact rather than cost lead. Providing costs for mitigation would be misleading.
- 6) It does not see the relevance of the reference to The Green Book. In the Applicant's experience, the Green Book is used in business cases, appraisals and evaluations for publicly funded projects. It is not used as part of an impact assessment for an ES. It was not designed for this purpose as it is concerned with the efficient use of public money to support decision making within Government.

24.4.43. Corpusty and Saxthorpe PC raised further concerns [REP4-057] that the proposed development has not complied with the method of assessment for such studies required by the UK Government's Green Book. Corpusty and Saxthorpe PC was of the view that the Proposed Development is not only a project but also a component of a programme of projects forming part of a national policy. Corpusty and Saxthorpe PC also set out [REP4-057] that it was concerned about the level of expertise available to NCC when it met with the Applicant and the level of consideration the Proposed Development was given.

24.4.44. The ExA subsequently asked [PD-017, Q3.6.4.1] the Applicant to provide further evidence on its view that UK Government's Green Book was not relevant to the Proposed Development. The Applicant in response to the representation by Corpusty and Saxthorpe PC [REP5-062] and in response to the ExA question [REP5-049, Q3.6.4.1] set out that:

- 1) The Green Book makes it clear that it applies to all government departments, arm's length public bodies with responsibility derived from central government for public funds and regulatory authorities. The Green Book is issued by Her Majesty's Treasury and concerns the provision of objective advice by public servants to decision makers, which in central government means advice to ministers. It is not stated to be a tool to be used by developers in the undertaking of environmental impact assessment. It is not aware of the Green Book having been used on other comparable projects.
- 2) It remains of the view that there is an appropriate tool for considering the likely significant effects of a Project on human health, within an EIA (Cave, B, et al) and that this has been followed.
- 3) Noted that OWF projects (Awel y Môr, East Anglia One, East Anglia Two, Norfolk Boreas, Norfolk Vanguard and Orsted Hornsea Project Four) all use Cave, et al in their assessments.
- 4) IEMA has recently issued guidance "*Guide to Determining Significance For Human Health In Environmental Impact Assessment, 2022*", which is based on the guidance used in ES [AP-114];

24.4.45. The Applicant emphasised [REP5-062] that Corpusty and Saxthorpe PC has not demonstrated that its methodology is inadequate but demonstrated that there are alternative methods by which to investigate the effects of a policy intervention on human health and well-being. The Applicant also asserted that it has not been proven Corpusty and Saxthorpe PC's alternative method has been applied to the assessment of environmental impacts on any other offshore windfarm or any other

infrastructure project. Furthermore, it was set out that the observations of Corpusty and Saxthorpe PC may be of theoretical interest, but it does not demonstrate how its preferred alternative approach would change the conclusions reached in the assessment [APP-114].

24.4.46. At the end of the Examination the concerns of Corpusty and Saxthorpe PC remained.

ExA's Reasoning

24.4.47. The ExA is particularly mindful that NPS EN1 requires for each element of the Proposed Development, an assessment to identify any adverse health impacts and identify measures to avoid, reduce or compensate for these impacts as appropriate. It does not stipulate a method of doing the assessment. The ExA accepts that the health assessment methodology should align with international and national good practice, such as the IPH (2021) and IAIA/EUPHA (2020) both of which are endorsed by the World Health Organization (2022) as good practice, as demonstrated by the Applicant. Further PHE (2020) cites the IAIA/EUPHA document as good practice. In addition, the approach aligns with the guidance from the IEMA, 2022.

24.4.48. Furthermore, NCC has agreed the assessment methodology. PHE has not raised any concerns during the Examination with regard to the Applicant's approach. The approach of the assessment has also been used by various other windfarm developments that has been found acceptable by the SoS.

24.4.49. The ExA considers that the Applicant has demonstrated through its submissions that the assessment is informed by suitable expertise. Further, the ExA is of the view that no substantive evidence has been provided to demonstrate that the application has not been considered appropriately by NCC. The ExA is also mindful that NCC has made detailed comment [RR-064] [REP1-080] on the assessment [APP-114].

24.4.50. The ExA agrees with the Applicant that although the comments from Corpusty and Saxthorpe PC demonstrate that there may be other ways to assess effects on human health and well-being, such as from an economic/ project planning perspective utilising academic papers, it has not provided suitable evidence to demonstrate that the Applicant's assessment is fundamentally flawed nor has it shown how its preferred methodology would alter the results of the Applicant's assessment.

24.4.51. The ExA is not convinced by the IPs arguments about the relevance of the Green Book. But even if it were of relevance, it would not alter the above findings and it has not been demonstrated how the assessment conclusions would be different.

24.4.52. For all of these reasons, the ExA concludes that the Applicant has undertaken a proportionate assessment that fulfils the requirements of NPS EN1, Section 4.13 and provides a robust basis to consider effects on health and well-being.

24.4.53. Further, the ExA is satisfied that the consultation undertaken by the Applicant has been appropriate with regard to health and well-being and is content that the Applicant has actively sought to contact hard to reach groups.

Vulnerable Groups

24.4.54. NCC set out in its relevant representation (RR) [RR-064] and LIR [REP1-080] that it had concerns that several missing vulnerable population groups and health outcomes had been missed in the assessment [APP-114]. The Applicant's response [REP1-036, Q1.6.4.5 and Q1.6.4.6] sets out that the inclusion of the additional vulnerable population groups and health outcomes sought by NCC would not change the overall findings of the ES [APP-114] with regards to air quality. NCC subsequently

confirmed [REP3-124, Q2.6.4.7] that it agreed with the Applicant that the inclusion of said groups and outcomes would not materially change the overall findings of the ES [APP-114]. The issue was therefore resolved during the Examination.

ExA's Reasoning

- 24.4.55. The ExA has considered the submissions of both parties with regard to this matter and agrees that the inclusion of the missing groups and outcomes would not materially change the overall findings of the ES [APP-114].

EMF

- 24.4.56. Several interested parties [RR-049] [RR-124] [REP1-186] [REP1-187] have raised concerns about EMF levels and expressed concern about potential health effects. It was also suggested [RR-124] [REP1-186] [REP1-187] that EMF levels should be monitored, and reference was made to research that suggested adverse health effects from EMFs. The ExA also noted [PD-010, Q1.6.4.12] [PD-012, Q2.6.4.8] that some cable types and phase arrangements produced lower EMF levels than others and asked the Applicant whether those with lower EMF levels should be adopted in all cases and what factors at detailed design stage influence cable selection.
- 24.4.57. The Applicant set out [REP1-036, Q1.6.4.12] that it had commissioned an independent study by National Grid [APP-279] which assessed the strength of EMFs along the onshore cable corridor. It noted that these calculations were performed by an independent third party in accordance with relevant standards to provide impartial, accurate and reliable analysis, and which demonstrated that all the design options assessed produced magnetic fields significantly below the International Commission on ICNIRP public exposure limits. Further, the Applicant stated that this was the case, even in worst-case conditions; using the design that produced the highest magnetic field and assuming the circuits were carrying the maximum load, which would also result in the highest magnetic fields possible. The maximum fields for such design were 11% of the public exposure limit, directly above the cables. This reduced to 0.5% of the exposure limits at the Order limits boundary.
- 24.4.58. The Applicant also explained [REP3-101, Q2.6.4.8] that EMF levels depend on several parameters, not only cable configuration. A combination of cable configuration, burial depth and distance from the circuits would determine the anticipated EMF levels at a given location. The final cable configuration would be determined at detailed design.

ExA's Reasoning

- 24.4.59. The Applicant's EMF assessment [APP-279] was undertaken by National Grid as an independent party. On this basis, the ExA is content that EMF levels have been appropriately and robustly assessed. The ExA is satisfied that EMF levels would be well within the ICNIRP exposure guidelines, even at the Order limit boundary. The ExA concludes that any adverse effects arising from EMFs would be below UK exposure limits and conforms with NPS EN-5.

Mental Health and Effective Communication

- 24.4.60. NCC [RR-064] [REP1-080] set out that it would like the Applicant to include further mitigation measures to address any adverse effects on mental health, especially given the potential length of construction works. The ExA asked [PD-010, Q1.6.4.9] NCC whether this position could be justified given it concluded that there are unlikely to be any significant, long term adverse health impacts from the proposal compared to baseline conditions.

- 24.4.61. NCC set out [REP1-079, Q1.6.4.9] that whilst the health impact assessment shows that there are unlikely to be significant long term health impacts from the proposal, it is likely that the works could cause stress, anxiety and depression in the short to medium term when construction works are underway. NCC also set out that this could be mitigated by: ensuring that affected communities are well informed about when disruption would take place, including the appointment of a community liaison officer; providing information about alternative routes when Public Rights of Way (PRoW) are impacted by the works; and providing a point of contact for the public to ensure that any complaints or anxieties are dealt with swiftly and effectively.
- 24.4.62. Furthermore, NCC noted that even though there is little evidence to suggest that EMFs are a risk to human health, this type of infrastructure can cause public concern and give rise to potential anxiety in local populations. An information campaign about EMFs in clear and non-technical language could go some way to alleviating such fears.
- 24.4.63. The Applicant responded [REP1-036, Q1.6.4.8] that there are provisions to ensure community liaison that would contribute to reducing stress and anxiety associated with the construction programme. These would include liaison with NCC about proposed construction works on PROWs and community liaison, including the appointment of a liaison officer and setting out procedures for addressing community complaints through the OCoCP and the Project Environmental Management Plan (PEMP).
- 24.4.64. The ExA explored such matters [EV-035] [EV-040] with the Applicant, who set out [REP3-109] that following further exchanges with NCC, it understood that NCC were not now raising any objection. NCC confirmed [REP3-124, Q2.6.4.6] that:
- the Applicant has undertaken to implement a complaints procedure for members of the public and appoint a dedicated liaison officer;
 - there is a consultation and communications strategy in place;
 - the Applicant has published an independent report into the effects of EMF; and
 - there are substantial Dust Management Plans, Construction Noise Management Plans and plans for maintaining access to public rights of way in the schedule of mitigation.
- 24.4.65. NCC therefore concluded that no extra mitigation was required. These matters were resolved during the Examination.

ExA's Reasoning

- 24.4.66. The ExA is content that the rDCO secures effective communication and engagement and would ensure people affected by construction works would be kept well informed, helping to reduce any potential effects on mental health.

Ambulance Service

- 24.4.67. The East of England Ambulance Service NHS Trust (EEAST) set out [RR-029] that it considered the Proposed Development would likely give rise to significant effects on its operational capacity, efficiency and resources (incorporating its staff, vehicle fleet and estate assets) which had not been baselined or sufficiently assessed. Further, it noted the Proposed Development was considered to adversely affect EEAST's ability to meet and deliver its targets and priorities (statutory duties) as a key healthcare and emergency services provider. EEAST was therefore of the view that identified impacts arising from the development should be addressed by employing appropriate mitigation and management measures and implemented through DCO Requirements, and/ or via a Section 106 (S106) Planning Obligation or Deed of

Obligation. In addition, Corpusty and Saxthorpe PC also raised [REP1-073] concerns about the impact of the Proposed Development on ambulance response times.

24.4.68. The ExA asked the Applicant [PD-010, Q1.23.5.6] whether any modelling or assessment to determine delays on ambulance responses had been undertaken and whether further discussions between the parties had taken place. The Applicant set out [REP1-036, Q1.23.5.6] that three potential impacts that could lead to delays to drivers were assessed, driver delay (capacity), driver delay (highway constraints) and driver delay (road closures). It was identified that the ES [APP-110] found that with the application of additional mitigation measures, the residual driver delay impacts are assessed to be not significant. The Applicant also set out that it was in discussions with EEAST about its concerns.

24.4.69. The ExA requested an update on these discussions [PD-012, Q2.23.2.4]. In response, an agreed Statement of Common Ground (SoCG) [REP3-116] [REP8-086] was subsequently provided. This sets out that following the discussions between the parties, the matters raised in EEAST RR had been addressed. Whilst the concerns of EEAST had been overcome, the concerns of Corpusty and Saxthorpe PC remained at the end of the Examination.

ExA's Reasoning

24.4.70. The ExA accepts that the effects on driver delay could affect ambulance response times. However, the ExA is content that this has been appropriately assessed in the ES [APP-110], which found no significant effects. The ExA is also mindful that EEAST has confirmed that its initial concerns have been overcome. On this basis, the ExA concludes that the Proposed Development would not have any significant adverse effects on ambulance response times and therefore on the health and well-being of local communities.

Inter-Project and Intra-Project Cumulative Effects

24.4.71. There have been many interested parties [too many to list] who are concerned by the combined effects from the Proposed Development itself (intra-project) on the health and well-being of local communities and residents, as well as cumulative effects of the Proposed Development with other projects (inter-project).

24.4.72. The ES [APP-114] during the cumulative assessment for health, draws on the conclusions of other Chapters such as traffic and transport, noise and vibration, air quality, land use, water resources and flood risk and socio-economic that are factors that could adversely affect health and well-being. The assessment [APP-114] finds that there would be no significant adverse intra-project or inter-project cumulative effects.

ExA's Reasoning

24.4.73. The ExA acknowledges that the overlapping effect of traffic and transport, noise and vibration, air quality, land use, water resources and flood risk and socio-economic impacts could have the potential to create intra-project cumulative effects, that could affect the health and well-being of local communities and residents in a way that could cause stress. Whilst these are clearly valid concerns and the ExA sympathises with them, they are not substantiated with any significant evidence. In this regard, Corpusty and Saxthorpe PC representation (as discussed in a previous section) also does not provide an alternative assessment or finding.

- 24.4.74. As such, the ExA accepts the Applicant's conclusion that there would be no significant intra-project cumulative effects following the implementation of secured mitigation measures.
- 24.4.75. The ExA has considered the cumulative effects of the Proposed Development with other projects in each individual Chapter for traffic and transport, noise and vibration, air quality, land use, water resources and flood risk and socio-economic. Given that the ExA has found that cumulative adverse effects in each of these case assessment areas would not be significant, the ExA can be confident in the Applicant's conclusion that there would not be any significant adverse cumulative effects, with other projects on the health and well-being of communities.

Air Quality

- 24.4.76. The ES [APP-132] finds that there would be no significant adverse effects on human health from air quality emissions, including cumulatively with other projects. The ExA examined [PD-010, Q1.6.5.8] whether the cumulative effects assessment for road traffic emissions was sufficiently robust and whether there were any road links considered cumulatively with the other projects that would exceed the IAQM and EPUK2017 criteria, but did not for this Proposed Development alone. The ExA also requested if there were, that an assessment in line with Section 22.6.1.3.1.1 of the ES [APP-132] be undertaken.
- 24.4.77. The Applicant confirmed [REP1-036, Q1.6.5.8] that there were additional road links that would exceed the IAQM and EPUK2017 criteria when considered cumulatively with other projects (i.e., Norfolk Vanguard, Norfolk Boreas and Hornsea 3) but that did not exceed the screening criteria for Proposed Development alone and these were provided [REP1-037, Figure 1 of Appendix A.1].
- 24.4.78. However, the Applicant considered [REP1-036, Q1.6.5.8] that a similar assessment to that already undertaken in the ES [APP-108, Section 22.6.1.3.1.1] was not required. In summary, this was on the basis that the links that had been assessed had already been done so cumulatively with other projects and each of the total predicted concentrations were "well below" (i.e. less than 75% of) the Nitrogen Dioxide, Particulate Matter (PM) 10 and PM2.5 Objectives. The Applicant noted that the majority of additional links, screened in cumulatively, are located in rural Norfolk, where background pollutant concentrations are low and are similar in nature to links that had already been assessed. Further, the Applicant also set out [EV-037] [EV-042] [REP3-109] for road links closer to Norwich, which is a more urban area with higher baseline pollutant concentrations, effects are also not expected to be significant and this could be demonstrated by comparing the predicted impact at modelled receptors with similar baseline traffic flows, similar changes in traffic flows and comparable background concentrations.
- 24.4.79. As such, the Applicant was of the view [EV-037] [EV-042] [REP3-109] that this was a robust way to determine whether any significant impacts may occur, as it is based on the quantitative assessment already undertaken using an approach which has been accepted by all relevant parties. The Applicant also confirmed there were no concerns raised by relevant LAs within their local impact reports on the cumulative air quality assessment or air quality in general.
- 24.4.80. A concern was raised by an interested party [EV-037] [EV-042] about the Applicant's approach of considering that if adverse effects on air quality are found to be negligible for the Proposed Development then there was no need for it to be considered for cumulative assessment. The ExA asked the Applicant to provide more justification for this approach [PD-012, Q2.6.5.1].

24.4.81. The Applicant responded [REP3-101, Q2.6.5.1] by noting that the EIA Regulation 5 requires the consideration of cumulative effects and Advice Note 17 provided by the Planning Inspectorate includes more detailed guidance as to how a cumulative assessment could be undertaken for major infrastructure projects. In summary, and in addition to its previous points, the Applicant set out that:

- 1) Advice Note 17 requires a proportionate approach.
- 2) Whilst it was acknowledged that numerous incremental changes in air quality could ultimately give rise to a significant effect (a benchmark for which would be potential exceedance of the air quality objectives) the baseline air quality assessment presented in the ES [APP-108] identified that baseline air quality conditions across the study area are good and therefore there are no areas of significant air quality concern. As such, the risk of exceedance of the air quality objectives, even with potential incremental local changes, is low.
- 3) All of the links which were considered to have a potentially significant effect as a result of the Proposed development were considered in detail in the cumulative assessment.
- 4) It has undertaken a semi-qualitative assessment based on the detailed dispersion modelling already undertaken, to demonstrate that significant cumulative effects would not occur on any additional links considered.
- 5) The effects of the Proposed Development would be experienced only on a temporary basis, during construction and as such, there is no potential for a long-term cumulative air quality effect.

24.4.82. On a related matter, Corpusty and Saxthorpe PC [REP1-073] asked what the assessment of the increased particulate emissions along both sides of the B1149 and B1145 is during the project's life and over the following 30 years taking account of: the particular susceptibility of the ageing population characteristic of the area and the child population in the area. The Applicant set out [REP3-103, Appendix B.3] that:

- 1) The ES [APP-108] includes an assessment of potential impacts from Project-generated construction road vehicle exhaust emissions (including particulates) at sensitive human receptor locations.
- 2) The Planning Inspectorate agreed to scope out operational impacts on air quality as they were unlikely to be significant, as such any impact of the Projects would be temporary.
- 3) The B1149 and B1145 were not explicitly included in the detailed modelling assessment presented in ES [APP-108], because project generated construction traffic (in both the 'isolation' and 'concurrent' scenarios) on these roads did not exceed the screening criteria provided by the IAQM and EPUK2017. Therefore, the impact of project generated traffic on these roads can be considered to be insignificant.
- 4) Given the rural nature of the study area and in Corpusty and Saxthorpe parishes, pollutant concentrations are very low [APP-261, Appendix 22.3] and no greater than 50% of the relevant health-based air quality objectives in 2025, the earliest year of construction for the Proposed Development.

ExA's Reasoning

24.4.83. The ExA accepts the Applicant's position and considers the air quality assessment [APP-108] to be robust. Further, the ExA is content that the subsequent semi-qualitative assessment REP1-036, Q1.6.5.8] strongly indicates that there are unlikely to be any significant cumulative effects on air quality in the study area and the comparison with links of a similar nature, represents a proportionate approach in line with the EIA Regulations and Advice Note 17.

- 24.4.84. The ExA is mindful that none of the Local Authorities raised any concern with regard to air quality and whilst numerous interested parties [too many to list], including Corpusty and Saxthorpe PC raised general concerns about the effects on air quality from construction vehicles, no substantive evidence was provided to challenge the Applicant's assessment. Given all of this, ExA concludes that the Proposed Development is in line with Section 5.2 of NPS EN1.

Waste Management

- 24.4.85. The OCoCP [APP-302] secures the production of a Site Waste Management Plan (SWMP). The ExA asked [PD-010, Q1.6.7.1] the Applicant to explain what it would contain and how it would be ensured that the waste hierarchy would be implemented. Further, the ExA also asked whether a SWMP would be required at the onshore substation.
- 24.4.86. The Applicant responded [REP1-036, Q1.6.7.1] by setting out that ES Appendix 17.2 Waste Assessment (Onshore Development) [APP-207, Section 17.2.3.4.3] presents information relating to the waste hierarchy. The Applicant explained that the SWMP would be prepared before construction starts to record any decisions given to materials resource efficiency when designing and planning the works. Further, any assumptions on design and the construction method or materials employed to minimise the quantity of waste produced on site or maximise the amount of waste reused, recycled, or recovered, would be captured within the SWMP. The SWMP would also provide information on each waste type and an estimate of the quantity of each type of waste and the proposed waste management option for each waste produced (i.e. re-use, recycling, recovery, or disposal; on or offsite).
- 24.4.87. In relation to the onshore substation, the Applicant set out [REP1-036, Q1.6.7.1] that small amounts of general waste may be generated and that wastes produced during operation phase would be managed in accordance with the general principles of the waste duty of care and suitable waste management plans and procedures would be developed as part of Operation and Maintenance Manuals.
- 24.4.88. In response to further questions from the ExA [EV-036] [EV-041] about whether the OCoCP should contain more detail about the SWMP, the Applicant [REP3-109] responded that construction waste is likely to be inert given the development is largely on greenfield land. Further, the Applicant confirmed that a cross reference to the relevant text in the ES [APP-207] would be included in a revised version of the OCoCP [REP3-064, Section 5] and this was provided.

ExA's Reasoning

- 24.4.89. The ExA is content, following the additions made to it by the Applicant, that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO, contains effective systems for minimising and managing waste in accordance with the waste hierarchy. The ExA therefore considers that the Proposed Development complies with Section 5.14 of NPS EN1.

24.5. CONCLUSIONS

- 24.5.1. Construction effects from traffic and transport, noise and vibration, land use, onshore habitats and ecology (including from air emissions), onshore historic environment and cultural heritage, landscape and visual effects, socio-economic effects and water quality and resources are all considered in those separate Chapters of this Recommendation Report. This Chapter considers all other onshore construction related matters that were examined.

- 24.5.2. The ExA is content that each Development Scenario has been appropriately considered and the worst-case has been assessed in the ES for each topic area. The worst-case relating to traffic and transport is considered in Chapter 18 of the Recommendation Report.
- 24.5.3. The ExA has found that the 60m cable corridor width for trenched crossings and 100m width for trenchless crossings are justified and are necessary for micro-siting and variations in cable design.
- 24.5.4. The ExA is satisfied that the Applicant's approach to the selection and location of construction compounds has sought to optimise efficiency and minimise impacts from construction works on the surrounding area.
- 24.5.5. The selected cable route at Weybourne Woods is appropriate and the ExA has been provided with little in the way of detail that the future developments referred to by the landowners are being progressed. Consequently, the ExA is unable to give any further consideration to the representation or weigh it against the Proposed Development.
- 24.5.6. The ExA has found the Applicant has undertaken a proportionate assessment of health and well-being effects that fulfils the requirements of NPS EN1, Section 4.13. The ExA agrees that the inclusion of the missing groups and outcomes identified by NCC would not materially change the overall findings of the ES [APP-114].
- 24.5.7. The ExA is content that the Applicant has appropriately assessed [APP-279] the potential for EMFs and is satisfied that EMF levels would be well within the ICNIRP exposure guidelines, even at the Order Limit boundary. The ExA also found that any adverse effects arising from EMFs would be below UK exposure limits and conforms with NPS EN5, Section 2.10.
- 24.5.8. The ExA is content that the rDCO secures effective communication and engagement and would ensure people affected by construction works would be kept well informed, helping to reduce any potential effects on mental health. The ExA has found that the Proposed Development would not have any significant adverse effects on ambulance response times and therefore on the health and well-being of local communities.
- 24.5.9. The ExA agrees with the ES findings [APP-114] that there would be no significant intra-project cumulative effects following the implementation of secured mitigation measures. Further, the ExA has considered the cumulative effects of the Proposed Development with other projects in each individual Chapter for traffic and transport, noise and vibration, air quality, land use, water resources and flood risk and socio-economic. Given that the ExA has found that cumulative adverse effects in each of these case assessment areas would not be significant, the ExA can be confident in the Applicant's conclusion that there would not be any significant adverse cumulative effects, with other projects on the health and well-being of communities.
- 24.5.10. There would, however, be some minor adverse residual effects as found in the ES assessment on health and well-being during construction from: noise, air quality, ground and or groundwater contamination effects, physical activity effects and journey time and/or reduced access effects. Further, there would be some minor effects from noise during operation and some minor wider societal benefits. Whilst a moderate level of wider societal benefits has been found cumulatively, this depends on the delivery of other projects, which is uncertain. The ExA therefore gives little weight to this finding.

- 24.5.11. The ExA considers the air quality assessment [APP-108] to be robust and that there are unlikely to be any significant cumulative effects in the study area. The Proposed Development is in line with Section 5.2 of NPS EN1.
- 24.5.12. The ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO, contains effective systems for minimising and managing waste in accordance with the waste hierarchy. The ExA therefore consider that the Proposed Development complies with Section 5.14 of NPS EN1.
- 24.5.13. Given all of this, the ExA concludes that the Proposed Development accords with the relevant parts of NPS EN1, Sections 4 and 5. It also accords with NPS EN3, Paragraph 2.6.37 and NPS EN5, Section 2.10.
- 24.5.14. Whilst acknowledging the minor societal benefits, there would nonetheless be some adverse effects for many of the matters discussed in this Chapter. Therefore, the ExA concludes that the matters discussed in this Chapter carry a minor level of weight against the making of the Order for all Development Scenarios.

25. SOCIO-ECONOMIC EFFECTS

25.1. BACKGROUND AND POLICY CONTEXT

25.1.1. Socio-economic effects was identified as a principal issue in the Rule 6 letter [PD-006, Annex C]. This concerned the effects of the Proposed Development on recreation, tourism, business, jobs, skills, individuals and communities. Effects on human health, including Electro-Magnetic Fields (EMF) are considered in Chapter 24 of this Recommendation Report.

National Policy Statement

25.1.2. The assessment for socio-economic effects as set out in the Overarching National Policy Statement for Energy (NPS EN1) requires an assessment to consider (NPS EN1, Paragraph 5.12.3):

- the creation of jobs and training opportunities;
- the provision of additional local services and improvements to local infrastructure;
- the effects on tourism;
- the impact of a changing influx of workers during the different construction, operation and decommissioning phases of the energy infrastructure; and
- cumulative effects.

25.1.3. In reaching a decision the Secretary of State (SoS) should: have regard to the potential socio-economic effects of new energy infrastructure identified by the Applicant and from any other sources; give limited weight to assertions of socio-economic effects that are not supported by evidence; and consider provisions and proposals to mitigate effects. (NPS EN1, Paragraphs 5.12.6, 5.12.7 and 5.12.8).

Other Legislation and Policies

25.1.4. Other legislation, policies and guidance relevant to the Proposed Development are set out in the Environmental Statement (ES) [APP-113, Section 27.4.1] and in Chapter 3 of this Recommendation Report. The Applicant's Planning Statement also sets out the national, regional and local planning policies that are considered relevant to the Proposed Development [AS-031].

25.2. THE APPLICATION

Environmental Statement

25.2.1. The Applicant's assessment of the socio-economic effects is set out in the ES in Chapter 27 Socio-Economics and Tourism [APP-113]. Other application documents that are relevant include: supporting figures [APP-173]; Socio-Economics Construction Costs and Sourcing Assumptions Note [APP-276]; Socio-Economics and Tourism Technical Baseline [APP-277]; Socio-Economics Impact Assessment [APP-278]; and the Outline Skills and Employment Plan [APP-310].

Scope and Methodology

25.2.2. The Applicant has assessed [APP-113] the national (United Kingdom) and regional effects (East Anglia) of the Proposed Development on the economy, employment, change in demographics and disturbance to social, community and health infrastructure. Further, the Applicant has assessed the visual impact of Offshore Infrastructure and impacts from construction on the volume and value of tourism at the local level (Norfolk). The cumulative assessment [APP-113, Section 27.7] considers the same effects.

- 25.2.3. The worst-case scenario depends on the effect that is being assessed, as set out in the ES [APP-113, Table 27.2].

Applicant's Assessment of Effects and Proposed Mitigation

- 25.2.4. The Applicant's proposed embedded mitigation that is common across the Proposed Development and relevant to socio-economic effects is summarised in the ES [APP-113, Section 27.3.3]. This includes installing the cables at the landfall using HDD, thereby reducing disturbance to Weybourne beach, using trenchless crossings under some local roads and mitigation associated with Traffic and Transport to minimise effects on local communities. Embedded mitigation specific to socio-economic effects has been secured through Draft Development Consent Order (dDCO) [AS-009] Schedule 2, Part 1, R19, Outline Code of Construction Practice (OCoCP) [APP-302] and the Outline Construction Traffic Management Plan (OCTMP) [APP-301].
- 25.2.5. Additional provisions specific to socio-economic effects has been secured through dDCO Schedule 2, Part 1, R26, Local Skills and Employment in the dDCO [AS-009], which requires the delivery of a final skills and employment plan to maximise employment benefits.
- 25.2.6. The Applicant's conclusion [APP-113] is that the residual effects of the Proposed Development on socio-economic matters would be minor beneficial for the economy and employment during both construction and operation. The Applicant [APP-113] concludes that there would be minor adverse residual effects on: change in demographics; disturbance to social, community and health infrastructure; the visual impact of Offshore Infrastructure on the volume and value of tourism; and impacts from construction on the volume and value of tourism during both construction and operation.
- 25.2.7. The Applicant's cumulative assessment [APP-113, Section 27.7] finds there would be major beneficial effects for the economy for both construction and operation and employment during construction. Further, the Applicant concludes that there would be moderate beneficial cumulative effects for employment during operation. All other cumulative effects are the same as those set out above for the Proposed Development.

25.3. LOCAL IMPACT REPORTS

Broadland District Council and South Norfolk Council

- 25.3.1. Both Local Authorities (LA) note [REP1-066] [REP1-090] that the economic benefits in terms of investment and job creation are welcomed and would contribute to the national and local economy.

North Norfolk District Council

- 25.3.2. North Norfolk District Council (NNDC) is concerned [REP1-082] about the impact of proposed windfarm construction activities on tourism within North Norfolk, arising from direct impacts and from the impacts of negative perceptions caused by awareness of the construction activity taking place. It also has some concerns that the impact of the Proposed Development on tourism may have been underestimated by the Applicant.
- 25.3.3. Whilst NNDC believes the long-term impacts of the cable route on the tourism economy would be benign, it has significant concerns that during the cable corridor construction phase there would be serious impacts on local tourism businesses such

that the construction works would have a substantial impact on the income of tourism businesses in the area, which needs greater recognition within the dDCO.

Norfolk County Council

- 25.3.4. Norfolk County Council (NCC) [REP1-080] welcomed the economic benefits of the Proposed Development and note that officers are working with the Applicant to develop an Employment and Skills Strategy. NCC would wish to see the Applicant develop a strategy to accompany the development and secure demonstrable benefits to both the local economy and workforce. It is set out that such a strategy would need to be agreed with both NCC and the District Councils affected, along with the New Anglia Local Enterprise Partnership.
- 25.3.5. NCC would also like to see a local community benefit fund set up outside the planning process, as is being undertaken by other offshore windfarm promoters, designed to support / assist those wider communities affected by the projects.

25.4. THE EXAMINATION

- 25.4.1. Issues emerging during Examination that the ExA has examined, considered, and concluded on are:

- 1) the effect of the Proposed Development on tourism;
- 2) whether there is sufficient temporary accommodation to house the construction workforce;
- 3) the case for a community fund; and
- 4) the effect of the Proposed Development on skills and employment.

Tourism

- 25.4.2. As identified above, NNDC raised concern about the effect of the Proposed Development on tourism in its Local Impact Report (LIR) [REP1-082] and set out that the Draft Development Consent Order (dDCO) should require a tourism and associated business impact mitigation strategy to be produced.
- 25.4.3. The ExA asked [PD-010, Q1.22.1.4] NNDC to explain how the construction of the Proposed Development would deter or otherwise impinge on a tourist's desire to visit and explore Norfolk. NNDC identified [REP2-058, Q1.22.1.4 and Q1.22.3.2] that if construction activities block, impinge or otherwise detract from a positive visitor experience then affected visitors may decide not to return or re-visit when construction activities are taking place. In addition, NNDC noted [EV-058] [EV-062] that it is challenging to present hard evidence of such impacts occurring as it is most likely that the extent of any such impacts would only be realised at the point that construction activities take place. It is difficult to quantify in a way that enables provisions to be secured within a legal obligation that are Community Infrastructure Levy compliant.
- 25.4.4. Further, NNDC explained [EV-058] [EV-062] that COVID 19 has had a significant impact on tourism and it is the smaller businesses, the pubs, cafes, the people that rely on passing trade that if they suddenly have a reduction in people visiting them, that impact on that individual business could be significant. NNDC noted that there may be opportunities to work with local businesses as part of the project and enquired whether the Applicant would support a local study outside of the DCO process to build on the evidence.
- 25.4.5. The Applicant responded [REP3-104] that it is confident that necessary measures have been identified in the ES [APP-113] to reduce any risk of negative impacts on

the volume and value of tourism. This includes measures set out in the Outline Construction Traffic Management Plan (OCTMP) [APP-301], Outline Code of Construction Practice (OCoCP) [APP-302] and the Outline Landscape Management Plan (OLMP) [APP-303].

- 25.4.6. The Applicant also identified [EV-058] [EV-062] data that shows during the construction period of the existing Dudgeon wind farm the number of day trips to North Norfolk between 2015 and 2017 increased by 815,000, which was an 11% increase. The number of overnight trips increased by 62,000, which is a 10% increase, and total visitor expenditure increased by £20.4 million, which was a 5% increase.
- 25.4.7. Furthermore, the Applicant [EV-058] [EV-062] set out that Paragraph 5.12.7 of NPS EN1 sets out that limited weight should be given to assertions of socio-economic impacts that are not supported by evidence and was of the view that no meaningful evidence has been put forward by interested parties that suggests that there would be a negative effect on tourism.
- 25.4.8. The ExA asked [PD-012, Q2.22.1.1] the Applicant to consider whether a contribution should be made towards tourism studies to assess the impacts of Offshore Wind developments on tourism and businesses in Norfolk and the evidence referred to by NNDC was also requested.
- 25.4.9. The Applicant [REP3-101, Q2.22.1.1] set out that it would be willing, in principle, to contribute to further research to understand the impact of offshore wind development on tourism volume and value in North Norfolk. The Applicant set out a number of potential study options, but noted that this was not considered necessary to support the Examination and would be progressed outside the Examination process.
- 25.4.10. On a related matter, the Applicant has relied on studies by BIGGAR economics to support its position. The reliance on such studies has raised concerns from NNDC [REP3-125, Appendix B] who asked the ExA to place little weight on the BIGGAR Report, 2016 for the following reasons:
- the focus of the report, and the research it cites concerns onshore wind farms, not on the construction impacts of large Offshore Wind Farms (OWF), and construction impacts were not considered at all;
 - the report and the underlying research on which it was based concerned visual impact of onshore turbines or wind farms, not disruption impact experienced during the construction period of large offshore projects; and
 - the report concerns Scotland and examines the relationship between the development of onshore wind energy and the sustainable tourism sector, which is not relevant to general tourism impact in North Norfolk.
- 25.4.11. Further, similar concerns were raised by Norfolk Parishes Movement for an Offshore Transmission Network (OTN) [EV-009] [EV-010] [EV-058] [EV-062] [REP2-074] who set out that:
- the studies were undertaken in areas outside of Norfolk and outside of the UK by people who have no local knowledge;
 - BIGGAR Economics is a commercial consultancy company that counts a number of windfarm developers among its clients and therefore the report cannot be considered independent;
 - a paper by Douglas Wynn for the John Muir Trust entitled "*Methodological Critique of the Report 'Wind Farms and Tourism Trends in Scotland' Revised Version by BIGGAR Economics Ltd, October 2017*" criticises the BIGGAR paper's methodology, namely its reliance on ONS data;

- the studies are unlikely to be representative for the likely scenario for the Proposed Development with cumulative impacts with other projects;
- there seems to be common agreement that there is limited valuable or relevant data on the impacts on tourism and a requirement should be imposed on developers to sponsor studies to provide clarity on the issue; and
- the Applicant has hidden behind Paragraph 5.12.7 of NPS EN1.

25.4.12. The ExA also asked [PD-010, Q1.22.1.5] the Applicant to provide further justification on the findings of the ES [APP-113] in terms of the visual impact of offshore works on volume and value of tourism activity, given that the assessment notes that there is a limited amount of research examining the relationship between the visual impacts of offshore wind farms and their construction upon tourism activity and the associated visitor economy.

25.4.13. The Applicant responded [REP1-036, Q1.22.1.5] [EV-058] [EV-062] [REP4-030] to all of these points by setting out in summary:

- 1) It does not believe that there is limited research. But acknowledges that the majority of studies have been ex-ante studies (conducted before the wind farm has been built or asking questions about how visitors would react to wind farms) as opposed to ex-post research (conducted after the wind farm has been built). The Applicant was of the view that ex-post studies are more robust because they assess actual changes in visitor behaviour as opposed to predicted behaviour.
- 2) Noted that BIGGAR Economics conducted a study in 2020 that analysed indicators of the tourism industry in 11 comparable cases, including one location adjacent to an Area of Outstanding Natural Beauty (Norfolk Coast AONB) and one location adjacent to a National Park, to identify any relationship between offshore wind farms and changes in visitor behaviour or spending during the construction periods. In the majority of cases, it found that tourism employment in the local district performed better during the construction period than the long-term average. In North Norfolk itself, it found that tourism related employment grew at a faster rate than the regional and national average while onshore construction was taking place.
- 3) The Applicant noted the findings of the 2021 study by BIGGAR Economics that conducted an analysis of 44 onshore wind farm case studies in Scotland and found no evidence of a link between wind farm development and trends in tourism employment.
- 4) Explained that the criticisms made by NNDC and Norfolk Parishes for an OTN largely relate the 2016 BIGGAR report and the 2020 study addresses many of these criticisms.

25.4.14. As set out in the final Statement of Common Ground [REP8-045] (SoCG) the concerns of NNDC and the Norfolk Parishes Movement for an OTN remained at the end of the Examination.

ExA's Reasoning

25.4.15. The ExA notes the concerns of NNDC and Norfolk Parishes Movement for an OTN in relation to the 2016 BIGGAR report. The ExA agrees with all of the parties that none of the studies that the Applicant has referred to in its assessment, including the 2016 BIGGAR report, are perfect. But the ExA is persuaded, particularly by the 2020 BIGGAR report, that the best information currently available suggests that there is no evidence of a negative impact on tourism during the construction period of OWFs. The ExA is mindful that no better study or evidence has been put before it.

25.4.16. The ExA notes that Paragraph 5.12.7 of NPS EN1 sets out that limited weight should be given to assertions of socio-economic impacts that are not supported by evidence.

Further, the ExA is mindful that NNDC accepts that the long-term effects of the cable route on the tourism economy would be benign.

- 25.4.17. The ExA has not been provided with any substantive evidence from NNDC that there would be significant adverse effects from the Proposed Development on tourism. The ExA considers the evidence provided by NNDC [REP1-082] [REP3-125, Appendix B] to be largely high level and does not provide sufficient detail to counter the Applicant's assessment [APP-113].
- 25.4.18. The ExA considers that the mitigation set out in the final iterations of the OCTMP [APP-301], OCoCP [APP-302] and OLMP [APP-303], secured by Requirement 11, 15 and 19 of the Recommended Development Consent Order (rDCO) are sufficient to ensure that there would be no significant adverse effects on tourism in North Norfolk, including cumulatively with other projects. Consequently, a requirement for either a tourism mitigation strategy or a contribution towards future studies cannot be justified and would not meet the tests set out in Paragraphs 4.1.7 and 4.1.8 of NPS EN1.
- 25.4.19. The ExA concludes that the Applicant's assessment is robust and that construction effects would be temporary and after mitigation the residual effects on tourism would not be significant and is in accordance with Section 5.12 of NPS EN1.

Temporary Workforce Accommodation

- 25.4.20. The ExA [PD-010, Q1.22.1.1] asked the Applicant to provide more justification for the assumption [APP-113, Paragraph 131] that the type of accommodation that would typically be used by construction workers would not compete with and displace homeless people and their families. The ExA requested [PD-010, Q1.22.1.2] that room occupancy rates were provided for the peak summer holiday period and more information be provided [PD-010, Q1.22.1.3] about the cumulative bedspace needs with other major construction projects in the area, including Sizewell C.
- 25.4.21. The Applicant responded [REP1-036, Q1.22.1.1] by setting out that 291 households are living in visitor accommodation, including bed and breakfast hotels (77), hostels (101) and non-serviced accommodation (113). Further, assuming each household takes up one room, this means they account for 1.2% of visitor accommodation in East Anglia. Visit Britain's occupancy data for 2022 shows that occupancy rates were at their highest in the month of July (85%) [REP1-036, Q1.22.1.2], and this would include those rooms taken up by households staying in temporary accommodation. The Applicant advised it is estimated that 330 non-East Anglia based construction workers would require accommodation for the construction of the Proposed Development. Assuming each worker required one room, these would account for an additional 1.3% of rooms in East Anglia. Therefore, during peak months, more than 13% of rooms would be unoccupied. The Applicant was therefore of the view that it is highly unlikely that construction workers would displace households in temporary accommodation.
- 25.4.22. In relation to cumulative effects, the Applicant set out [REP1-036, Q1.22.1.3] that it was not possible to robustly quantify the demand for bedspaces across all cumulative projects because of the limited information in the planning applications for other projects. However, if it was assumed that each of the eight OWF projects in the cumulative assessment also resulted in 330 workers seeking visitor accommodation, this would result in a total demand for 2,640 bedspaces during construction. Adding in the 800 workers from Sizewell C would generate total demand for around 3,500 bedspaces. Assuming one room per worker these would account for 14% of all rooms in visitor accommodation in East Anglia (based on the most recent accommodation audit from 2016). Given a maximum occupancy rate of 85% in peak months, the Applicant noted that this level of demand (99%) could potentially mean there is an

undersupply of visitor accommodation, which could result in some displacement of other markets.

25.4.23. The Applicant further explained [REP1-036, Q1.22.1.3] that in practice, it is highly unlikely that this demand would be focused on the same areas at the same time and that the accommodation stock audit is several years out of date. According to ONS UK Business Counts data, the number of businesses in the visitor accommodation sector in East Anglia increased by 28% between 2016 and 2022. That means the total supply of rooms is likely to be much higher than the illustrative example suggests. Demand for rooms would also be lower if some workers shared rooms.

25.4.24. The ExA noted [EV-058] [EV-062] that available bedspace for construction workers might be tight during peak summer periods and therefore on this basis, asked the Applicant whether there was a need for mitigation, such as encouraging room sharing to reduce demand wherever possible. The Applicant set out that [EV-058] [EV-062] [REP3-110] it had done some further work, and this included information about the potential level of demand from other developments in East Anglia. This found that:

- 1) Outside peak months there would be adequate capacity to meet demand. In a hypothetical worst-case scenario, peak demand for accommodation would be 2,500 bed spaces. This would increase occupancy in visitor accommodation in East Anglia in July (the peak month) from 85% to 94% and would mean there would be 1,600 rooms unoccupied. As such, there would be sufficient capacity overall, although this would mean there is increased competition for rooms and a risk of price increases.
- 2) It is highly unlikely that the peak periods of demand for all projects would overlap given some have already started construction and others are unlikely to reach their peak workforce requirement for several years. For example, one project included is Sizewell C which is forecast to reach peak demand in year seven of the construction period (2031 at the earliest). The peak demand for all the OWFs is expected to occur before that. Removing those projects which are unlikely to overlap with the peak for the Proposed Development (i.e. East Anglia THREE and Sizewell C) reduces the occupancy rate to 90.4% in peak months. This is high, but not unheard of in popular visitor locations.

25.4.25. Following further questioning from the ExA [EV-058] [EV-062] [PD-012, Q2.22.3.1], the Applicant agreed to look at impacts on accommodation types and prices further and include the highway improvement schemes in its assessment. Furthermore, the Applicant confirmed that mitigation measures such as room sharing or co-ordination with other developers could be an option which could potentially be considered further. The Applicant's reply can be summarised as:

- it is estimated that the highway improvement schemes could generate 250 non-home-based workers that would need accommodation;
- the worst-case peak cumulative demand, if all projects overlapped with the peak period for the Proposed Development, could be for 2,366 bedspaces;
- while there is no data available on how the supply of accommodation in the local area has changed since 2016, applying Visit England's estimates of the annual change in supply of visitor accommodation for England as a whole, it is estimated there are currently 24,474 rooms and 75,409 bedspaces in East Anglia;
- assuming each worker required their own room, the occupancy rate would be 94% and mean there would be 1,755 rooms unoccupied;
- such demand is considered to be unlikely as it is not considered likely that the peak construction periods for OWFs would overlap with that of Sizewell C;
- it would expect the supply of visitor accommodation to respond to evidence of demand if there are strong signals that the market is under-supplied;

- there is no data available on the occupancy rates of accommodation with different price points; and
- the overall demand can be accommodated.

ExA's Reasoning

- 25.4.26. The ExA notes that should the peak construction periods for all cumulative projects coincide with each other, then the level of available temporary accommodation during the peak summer period could be tight. However, the ExA is persuaded by the Applicant's argument that it is highly unlikely that in practice this would occur because of the anticipated timings of construction works for the various projects. Further, the ExA is mindful that the Applicant's assessment is conservative insofar that the worst-case scenario of 94% occupation across East Anglia does not factor in any growth in visitor accommodation in the area since 2016.
- 25.4.27. Based on this, the ExA can conclude that there is likely to be sufficient temporary visitor accommodation to house the construction workforce of the Proposed Development as well as the other projects cumulatively, without displacing vulnerable households from such accommodation.

Employment and Skills

- 25.4.28. The application is supported by an Outline Skills and Employment Plan (OSEP) [APP-310]. The ExA examined [PD-010, Q1.22.2.8] with both the Applicant and NCC whether its contents were sufficient to ensure local socio-economic benefits are secured and maximised, and whether firmer commitments and targets for local employment and skills/training were needed, particularly to realise the potential benefits set out in the ES [APP-113].
- 25.4.29. NCC confirmed [REP1-078] that it was broadly sufficient at this stage, given that R26 of the dDCO [AS-009] ensures that the OSEP would need to be approved by the relevant LA. NCC and the Applicant [REP1-036, Q1.22.2.8] also noted that more discussion had been undertaken and a number of additional actions had been agreed. This included the integration of NCC's suggestions and insights into the OSEP amongst other matters.
- 25.4.30. Following further discussions [EV-058] [EV-062], the ExA asked the Applicant [PD-012, Q2.22.2.1] to provide an amended OSEP to include the additional measures proposed by the Applicant. This was subsequently provided [REP3-072]. However, the draft SoCG provided between the Applicant and NCC [REP4-021] set out that discussions on the OSEP were still being undertaken with regard to key NCC recommendations, including outcomes from the new Local Skills Improvement Plan process dialogue (Norfolk Chambers). The ExA therefore asked [PD-017, Q3.22.2.1] for an update on the discussions.
- 25.4.31. The Applicant said [REP5-049, Q3.22.2.1], that it was continuing to engage with NCC on the topic of skills and employment and owing to the nature of the document (it would continue to be a 'live' document) would continue engagement. Following the revised OSEP [REP3-072], the Applicant set out that NCC has agreed that the outline plan is appropriate and well aligned with Norfolk's emerging skills priorities. A revised SoCG was provided to reflect this at the end of the Examination [REP7-084].

ExA's Reasoning

- 25.4.32. Given the engagement with NCC on the content, the support from NCC on the measures proposed and that there are no objections from any other parties, the ExA finds that the final iteration of the OSEP [REP3-072], which is secured by R26 of the

rDCO is sufficient to secure skills and employment benefits to the local area, as set out in the ES [APP-113].

Community Fund

- 25.4.33. Many interested parties [too numerous to list] set out that the Applicant should provide a community fund to offset the impact of the Proposed Development on local communities. Several also referred to the existing OWF providing such a fund.
- 25.4.34. The ExA [PD-010, Q1.22.4.1] asked the Applicant why one was not proposed in this case. The Applicant responded [REP1-036, Q1.22.4.1] that it is keen to continue to work with the local community to deliver benefits to the area and it is a long-term partner in Norfolk and the East of England and has been an active member of the community for over a decade through its Sheringham Shoal and Dudgeon Offshore Wind Farms that it operates off the Norfolk coast. The Applicant added that both existing wind farms have established community funds. Each fund allocates £100,000 of funds per year to Norfolk community groups including schools and non-governmental organisations seeking financial assistance for projects or initiatives that focus on renewable energy, marine environment and safety, sustainability or education. Furthermore, it was set out that the benefits linked to skills and employment is secured by R26 (Local skills and employment) of the dDCO [AS-009].
- 25.4.35. The matter was discussed further [EV-058] [EV-062] and the Applicant in response [REP2-017, ID18] to Weybourne Parish Council's written representation [REP1-103] said that a community benefit fund would be set up if the Proposed Development is granted consent. The Applicant would consult with the community and stakeholders on an appropriate and complementary programme. However, the Applicant later confirmed [EV-058] [EV-062] [REP3-110] that meetings have taken place with Norfolk Community Foundations, NCC and other developers to look at opportunities for collaboration for community benefit funds and ensure there is support for strategic activities and this does not represent a change of position, but the position is evolving. The Applicant further set out that such matters fall outside of the DCO process, as acknowledged by LAs.

ExA's Reasoning

- 25.4.36. The ExA is mindful that the Applicant and LAs agree that matters associated with a community fund should be considered outside of the DCO process. Given this, the ExA has no grounds on which to seek further evidence on this matter and the ExA cannot therefore give it any weight in its considerations.

25.5. CONCLUSIONS

- 25.5.1. The ExA considers that the construction effects on tourism would be temporary, and after mitigation the residual adverse effects would not be significant. The ExA concludes that the Proposed Development would be in accordance with the requirements of Section 5.12 of NPS EN1.
- 25.5.2. The ExA has found that there would be sufficient temporary visitor accommodation to house the potential construction workforce of the Proposed Development and those of cumulative projects. Further, the ExA considers the ES assessment [APP-113] of the change in demographics and disturbance to social, community and health infrastructure to be robust, which identifies that any adverse effects would be minor in nature.
- 25.5.3. The ExA is of the view that the final iteration of the OSEP [REP3-072] is sufficient to secure skills and employment benefits to the local area, as set out in the ES [APP-

113]. The ExA considers that the creation of direct and indirect jobs and training opportunities, as set out in the ES [APP-113] to be a positive beneficial effect in accordance with Paragraph 5.12.3 of NPS EN1.

- 25.5.4. The ExA agrees with the Applicant that addressing community benefits, as opposed to mitigating adverse effects, is a matter that should be considered outside of the DCO process.
- 25.5.5. There is a compelling case for the delivery of new electricity generation infrastructure from renewable sources and the ES [APP-113] sets out the Proposed Development would provide a contribution to the regional and national economy.
- 25.5.6. The cumulative effects set out in the ES for the economy and employment rely on the other projects coming forward as planned which is uncertain, but this does not affect the level of benefit the Proposed Development itself would bring.
- 25.5.7. Whilst there would be some adverse effects, as identified in the ES [APP-113] to tourism, change in demographics and disturbance to social, community and health infrastructure, these would be minor and mostly temporary. The ExA concludes that the Proposed Development would deliver the policy requirements of Paragraphs 5.12.3, 5.12.6, 5.12.7 and 5.12.8 in NPS EN1.
- 25.5.8. The ExA is mindful that the level of benefits in terms of the economy and employment to the East Anglia region that the Proposed Development might deliver is somewhat uncertain. The ES [APP-113] identifies that there is a wide range of potential economic and employment benefits to the East Anglia region depending on whether or not a local port is utilised. This would be a commercial decision and remains unknown. However, it is important to note that the contribution to the UK economy and employment levels would be the same wherever the port would be located.
- 25.5.9. Further, it is clear from the ES [APP-113] that the delivery of both projects would result in greater benefits than if just one is delivered.
- 25.5.10. The ExA considers that the Proposed Development would make a meaningful contribution to the UK economy and employment levels. In terms of regional benefits, the ExA has taken a conservative approach given that it cannot be guaranteed that a local port would be selected to support construction works.
- 25.5.11. Overall, the ExA concludes that socio-economic factors considered in this section weigh significantly in favour of making the Order for Development Scenarios that result in both projects being delivered and moderately in favour of making the Order for Development Scenarios where only one project would be delivered.

26. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

26.1. INTRODUCTION

26.1.1. This Chapter sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security & Net Zero (SoS), as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (the Habitats Regulations).

26.1.2. This Chapter is structured as follows:

- Section 29.2: Findings in relation to Likely Significant Effects (LSE);
- Section 29.3: Conservation Objectives;
- Section 29.4: Findings in relation to Adverse Effects on Integrity – Introduction;
- Section 29.5: Findings in relation to Adverse Effects on Integrity - Onshore Sites;
- Section 29.6: Findings in relation to Adverse Effects on Integrity – Annex I Offshore Sites;
- Section 29.7: Findings in relation to Adverse Effects on Integrity – Marine Mammal Sites;
- Section 29.8: Findings in relation to Adverse Effects on Integrity – Offshore Ornithology Sites;
- Section 29.9: Findings in relation to Adverse Effects on Integrity – Summary;
- Section 29.10: Derogations; and
- Section 29.11: HRA conclusions.

26.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s)⁴ and no reasonable scientific doubt remains⁵.

26.1.4. Policy considerations and the legal obligations under the Habitats Regulations are described in Chapter 3 of this Recommendation Report.

26.1.5. The Proposed Development is also within the Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ). MCZ are not included in the designations to be considered under the Habitats Regulations. The implications of the proposals for this designation are discussed in Chapter 9 of this Recommendation Report. Where the analysis below contains information of relevance to designated or proposed MCZ, cross reference is provided to where these matters are discussed elsewhere within this Recommendation Report.

26.1.6. The ExA has been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and relevant

⁴The term European sites in this context includes Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed SACs (pSACs), potential SPAs (pSPAs), Ramsar, proposed Ramsar, and any sites identified as compensatory measures for adverse effects on any of the above

⁵CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij

Interested Parties (IPs), including Natural England (NE), the Joint Nature Conservation Committee (JNCC) (in this case represented by NE), and NatureScot as the Appropriate Nature Conservation Bodies (ANCB), through written questions (WQs) and Issue Specific Hearings (ISH).

26.1.7. A number of the HRA matters discussed during the Examination were also relevant to the Environmental Impact Assessment (EIA). Therefore, this Chapter should be read alongside the following chapters of this Recommendation Report:

- Chapter 7 – Offshore Ornithology;
- Chapter 8 – Marine Mammals;
- Chapter 9 – Subtidal and Intertidal Ecology Including Fish and Shellfish;
- Chapter 11 – Coastal and Offshore Physical Processes; and
- Chapter 21 - Habitats and Ecology – Onshore.

Report on the Implications for European Sites and consultation

26.1.8. The ExA produced a Report on the Implications for European Sites (RIES) [PD-020] which compiled, documented, and signposted HRA-relevant information provided in the Development Consent Order (DCO) application and Examination representations up to Deadline (D) 5 of the Examination (13 June 2023). The RIES was issued to set out ExA understanding on HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time.

26.1.9. Consultation on the RIES took place between 16 June 2023 and 10 July 2023. Comments were received from the Applicant [REP7-062] and NE [REP7-111] at D7, 10 July 2023. These comments have been taken into account in the drafting of this Chapter.

26.1.10. It is noted that at the point of issue of the RIES, a number of HRA matters remained outstanding and updated advice was subsequently provided by NE on various matters. Furthermore, a number of Examination submissions at D7 and D8 included HRA-relevant information. NE [REP7-111] advised that it does not consider consultation on the RIES adequately discharges the statutory requirement for the SoS to consult NE on appropriate assessments, as the RIES draws no conclusions on Adverse Effects on Integrity (AEoI). NE advised the RIES be updated before issue to the SoS. In accordance with the Planning Inspectorate's Advice Note 10⁶, the RIES is not revised following consultation and as such the ExA did not republish a revised version. This Chapter considers all HRA representations made by IPs during the Examination, including those made after consultation on the RIES.

26.1.11. Given the large amount of HRA information submitted by both the Applicant, the Marine Management Organisation (MMO) and NE in particular, following publication of the RIES, the ExA's recommendation is that the SoS should undertake further consultation to fulfil the duties under Regulation 63(3) of the Habitats Regulations and Regulation 28(4) of the Offshore Habitats Regulations.

Relevant Application Documents

26.1.12. The Applicant's HRA application documents comprised a Report to Inform Appropriate Assessment (RIAA) [APP-059] (hereafter referred to as the 'Applicant's RIAA'), together with supporting Appendices [APP-060 to APP-061]. Information to support the derogations [APP-063] and proposed compensatory measures [APP-064

⁶<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-ten/>

to APP-075] was also provided with the application. A number of these documents were revised during the Examination, as detailed in the Applicant's Guide to the Application [REP8-002].

Proposed Development Description and HRA Implications

- 26.1.13. The Proposed Development is described in Chapter 1 of this Recommendation Report. The spatial relationship between the Order limits of the Proposed Development and European sites is shown on several figures provided within Appendix 1 [APP-060] to the Applicant's RIAA, including: Figure 3-1 (onshore European sites); Figure 4-1 (Annex 1 habitat offshore European sites); Figure 6-5 (marine mammal European sites); and Figure 7-1 (ornithology European sites). European sites designated for marine mammal qualifying features that have been carried forward to the consideration of AEoI are also shown on Figure 8.1 of the RIAA [APP-059]. The Applicant provided further figures as Annex 1 to its response at D7 to the RIES [REP7-062] to show all European sites considered in relation to the Proposed Development, including those within European Economic Area (EEA) States.
- 26.1.14. During the Examination, the Applicant submitted two change requests with a number of proposed changes as reported in Chapter 2 and 4 of this Recommendation Report. These changes were accepted by the ExA as described in Chapter 4 of this Recommendation Report. The ExA concluded that no relevant HRA matters arose from these change requests [PD-013] [PD-014].
- 26.1.15. The Proposed Development is not directly connected with, or necessary to, the management of any European site. Therefore, where the Proposed Development is likely to have an LSE on any European site, alone or in-combination with other plans and projects, the SoS must make an appropriate assessment of the implications of the Proposed Development for the European site(s) in view of the site's Conservation Objectives.

Summary of the Applicant's HRA Assessment

- 26.1.16. The Applicant's screening assessment was presented in Appendix 1 to the Applicant's RIAA [APP-060]. As noted in the RIES [PD-020], this assessment was not updated for the submission or during the Examination and is therefore not the latest screening assessment of the application. The Applicant's latest HRA screening is however presented in the HRA Screening Matrices, which were updated at Deadline 4 [REP4-009].
- 26.1.17. The European sites and qualifying features for which the Applicant concludes LSE from the Proposed Development alone or in-combination, together with the rationale for screening in, are listed in the Applicant's RIAA [APP-059, Table 5-2] and in Annex 1 to the RIES [PD-020]. HRA Integrity Matrices [REP4-011] were also provided by the Applicant for each of the European sites and qualifying features carried forward to consideration of AEoI.
- 26.1.18. At the point of the DCO application, the Applicant concluded that AEoI could not be excluded to the following European sites and features from the Proposed Developments in-combination with other projects and plans:
- North Norfolk Coast (NNC) Special Protection Area (SPA) – Sandwich tern (breeding) – operational phase collision risk.
 - Greater Wash (GW) SPA – Sandwich tern (breeding) – operational phase collision risk.

- Flamborough and Filey Coast (FFC) SPA – kittiwake (breeding) – operational phase collision risk.

- 26.1.19. Although the Applicant considered that AEoI could be excluded for the gannet, guillemot and razorbill features of the FFC SPA, it provided a without prejudice derogations case for these three qualifying features with its application [APP-063].
- 26.1.20. By D5 of the Examination, NE [REP5-091] [REP5-094] confirmed that based on updates during the Examination, an AEoI could be ruled out for the gannet qualifying feature of the SPA. The Applicant therefore removed reference to gannet in its without prejudice compensatory measures documents.
- 26.1.21. The Applicant also confirmed by the end of the Examination [REP8-052], that its conclusion of no AEoI to the razorbill qualifying feature of the FFC SPA was supported by the SoS' HRA conclusion for the Hornsea Project Four Offshore Wind Farm (OWF) (Hornsea 4), and thus the Applicant also removed the without prejudice razorbill compensation from its Without Prejudice Drafting for Schedule 17 of the dDCO (Revision D) [REP8-008]. Due to time constraints, the Applicant did not amend other without prejudice documents (e.g. [REP7-020]) but stated that reference to razorbill in these documents should be disregarded.
- 26.1.22. By the end of the Examination the only remaining without prejudice derogations case was the guillemot (non-breeding) qualifying feature of the FFC SPA, in respect of operational phase displacement/ barrier effects in-combination.
- 26.1.23. The Applicant concluded that the Proposed Development would not result in an AEoI on any other European site [APP-059] [REP4-010].
- 26.1.24. Non-UK European sites in EEA States were also considered in the Applicant's assessment [APP-060] [REP4-009]. This is described further in the following Section.

26.2. FINDINGS IN RELATION TO LSE

- 26.2.1. Under Regulation 63 of the Habitats Regulations and Regulation 28 of the Offshore Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an appropriate assessment and the activities, sites or plans and projects to be included for further consideration within such an assessment.

European Sites Considered for LSE

- 26.2.2. The European sites and qualifying features that were considered in the Applicant's assessment of LSE are presented in the Applicant's HRA Screening Matrices [REP4-009]. The Applicant's RIAA [APP-059, Section 5] summarises the screening exercise undertaken by the Applicant. The RIES [PD-020, Section 2] summarises matters in the Examination relating to the Applicant's screening for LSE up to D5.
- 26.2.3. A total of 182⁷ European sites (and their qualifying features) were screened for LSE by the Applicant in its HRA assessment [APP-059, APP-060 and REP4-009]. Of these sites, 94 are within the UK National Site Network (NSN) and 88 are non-UK European sites located in EEA States.

⁷ Table 2-2 of [APP-061] lists 166 European sites; however, SPA and Ramsar have been combined into one site within the table. This figure here represents the number of individual sites.

26.2.4. Of the 94 European sites in the UK NSN, 42 are sites located in Scotland or Scottish Waters [APP-060, REP4-009], and 20 of these were carried forward to consideration of AEoI by the Applicant [APP-059, REP4-010]. The ExA asked NatureScot [PD-017], as the relevant ANCB for those sites, for any comments on the Applicant's HRA on European sites in Scotland. Questions were also included in the RIES directed to NatureScot. No response from NatureScot was received during the Examination.

The Applicant's assessment approach

26.2.5. The RIAA [APP-059, Section 5] summarises the screening exercise undertaken by the Applicant, which is also described in the RIES [PD-020, Section 2]. Appendix 1 to the Applicant's RIAA presents the HRA Screening Assessment [APP-060] and Section 2.3 of that document sets out in broad terms the approach to screening for LSE. The selection process to identify relevant European sites and qualifying features is then described in further detail under the impact pathways/receptor type, as follows.

- Onshore sites (Terrestrial Ecology)
- Offshore Annex I Habitats (Benthic Ecology);
- Offshore Annex II Species (Fish);
- Offshore Annex II Species (Marine Mammals); and
- Offshore Annex II Species (Ornithology).

26.2.6. The HRA Screening Matrices [REP4-009, Table 2-1] identifies the potential effect pathways from the Proposed Development to European sites and qualifying features considered by the Applicant. The rationale for those European sites and qualifying features screened in for consideration of AEoI is also summarised in the RIAA [APP-059, Table 5-2].

26.2.7. The RIAA [APP-059] assessed the potential impacts during construction, operation and maintenance (O&M), and decommissioning. The Applicant considered that for the purposes of a worst-case scenario (WCS), impacts during the decommissioning phase would be no greater than those identified for the construction phase.

26.2.8. The RIAA [APP-059, Appendix 1, Section 4.2.1] details that the HRA screening exercise was undertaken in April 2021 and that Appendix 1 should be read in conjunction with the RIAA [APP-059] and its Appendix 2 [APP-061], [REP4-009], which together reflect the final HRA screening outcomes. Changes to the original screening conclusions (which are not reflected in Appendix 1 [APP-060] to the RIAA) are summarised in Section 4.2.1 of the RIAA and included in Section 2.2 of the HRA Screening Matrices [REP4-009].

26.2.9. The HRA Screening Assessment [APP-060] at Section 2.3.1 details the Applicant's approach to assessing in-combination effects. This follows a tiered approach. The projects and plans considered for the in-combination assessment for each receptor type are either identified in the relevant sub-section [APP-060] or a cross-reference is included to supporting information provided in the Environmental Statement (ES).

26.2.10. With regards to changes since the original screening presented in Appendix 1 [APP-060], the RIAA [APP-059] explains that Broadland Ramsar was initially screened out but subsequently screened in for LSE in the RIAA due to the potential for collision risk to affect migratory waterbird qualifying features.

26.2.11. In respect of marine mammals, it was initially considered that no European sites designated for bottlenose dolphin had the potential for connectivity with the Proposed Developments. However, based on a recent increase in presence of the bottlenose dolphin along the north-east coast of England, and on a precautionary basis, it has

been assumed that bottlenose dolphin off the east coast of England could be from the Moray Firth Special Area of Conservation (SAC) and as such this European site was assessed further for LSE.

- 26.2.12. With regards to offshore ornithology: Pentland Firth potential Special Protection Area (pSPA) was subsequently screened out as it was withdrawn as a pSPA; Fetlar SPA was screened out because no relevant qualifying features have connectivity with the Proposed Developments; and the Outer Thames Estuary (OTE) SPA red-throated diver (RTD) qualifying feature was subsequently screened in because vessels associated with the Proposed Development would transit through its northern extremity between the Sheringham Offshore Wind Farm Extension Project (SEP) and the Dudgeon Offshore Wind Farm Extension Project (DEP) and the port of Great Yarmouth.

LSE matters during the Examination

- 26.2.13. During the Examination, NE identified several European sites/ qualifying features and potential effect pathways where it either disagreed with the Applicant's screening conclusion or identified new/different sites and features it considered should be included in the Applicant's assessment. These are summarised in the RIES [PD-020, Table 2-1].
- 26.2.14. NE [RR-063] considered additional impact pathways should be screened into the Applicant's assessment, where they had previously been screened out of LSE. These are identified in Table 2-1 of the RIES and were in respect to the following European sites:
- 1) River Wensum SAC;
 - 2) Berwickshire and North Northumberland Coast SAC;
 - 3) Humber Estuary SAC;
 - 4) Southern North Sea (SNS) SAC;
 - 5) FFC SPA;
 - 6) GW SPA; and
 - 7) NNC SPA.
- 26.2.15. Matters were also raised by NE [RR-063] concerning the LSE conclusions for the Inner Dowsing, Race Bank and North Ridge SAC and The Wash and North Norfolk Coast SAC, in respect of the qualifying feature 'Sandbanks which are slightly covered by seawater all of the time'.
- 26.2.16. These matters are summarised below.

River Wensum SAC

- 26.2.17. The Applicant initially screened out LSE to the white-clawed crayfish, brook lamprey, and bullhead qualifying features [APP-060]; however, NE [RR-063] considered LSE could occur to these features due to a risk of bentonite break-out during drilling and recommended that they be screened in for LSE on a precautionary basis. The Applicant provided an assessment of LSE for these qualifying features [REP2-050].

Berwickshire and North Northumberland Coast SAC

- 26.2.18. NE [RR-063] confirmed agreement that this SAC could be screened out of the Applicant's HRA Screening at the pre-application stage; however, NE also noted that since the completion of the HRA Screening, further information had been published that has reported that the maximum foraging range of grey seals is 448 kilometres (km) and thus the Berwickshire and North Northumberland SAC is within the foraging range. NE did however consider that although there is connectivity between the

Proposed Developments and the SAC, the level of connectivity is likely considerably lower than that for the nearer Humber Estuary SAC. Consequently, NE considered that the outcome for the Humber Estuary SAC represents that most precautionary assessment for grey seal sites, and any potential impact to the Berwickshire and North Northumberland SAC would be lower.

- 26.2.19. The ExA requested through the RIES [PD-020] that the Applicant provide the Conservation Objectives for this site and qualifying feature. The Applicant provided a link to the Conservation Objectives and the Supplementary Advice on Conservation Objectives in its response at D7 [REP7-062]. The ExA [PD-020] also asked NE to confirm whether it remained in agreement of no AEol. NE [REP7-111] confirmed that it is still in agreement that there would be no AEol to the Berwickshire and North Northumberland Coast SAC and grey seal qualifying feature from the Proposed Development, alone or in-combination with other plans or projects.

Humber Estuary SAC

- 26.2.20. With regards to impacts to supporting habitat of grey seals, NE [RR-063] stated it did not agree that impacts to supporting habitats of the Humber Estuary SAC grey seal qualifying feature could be screened out of having LSE, as it considered that there could be some material effect on the behaviour of seals associated with the site. NE recommended that 'impacts to grey seal habitats' impact pathway should be assessed as having LSE. The Applicant [REP2-051] responded that due to the distance of the Proposed Development to the supporting habitats of the Humber Estuary SAC (59km) any potential for LSE was screened out [APP-060] and has not been considered further. The Applicant confirmed that grey seal as a qualifying feature has been assessed for impacts beyond the SAC including disturbance, vessel interactions and supporting habitat considerations (such as changes in prey availability). In response to clarification sought on this matter through the RIES, NE [REP7-111] stated that whilst it maintains that impacts to functionally linked habitat of seal SACs should be considered for LSE, it is content that there would be no AEol from this pathway.
- 26.2.21. With regards to barrier effects to grey seals, NE [RR-063] requested to see more details in the assessment of barrier effects to seals. Further detail was requested to be provided in the assessment of barrier effects to seals, specifically regarding movement between important sites and feeding areas. NE also responded at D5 [REP5-093] that the Applicant had provided an updated assessment of barrier effects to seals, which addressed its concerns in part.
- 26.2.22. By the end of the Examination, NE [REP7-111] agreed with the Applicant that there would be no AEol from both potential effect pathways [REP7-066] and confirmed in NE's response to the RIES [REP7-111]. The Applicant [REP7-062] confirmed that NE agrees with all sites/features and pathways of effect screened into the Applicant's HRA. These pathways of effects have been considered by the ExA later in this Chapter.

SNS SAC

- 26.2.23. With regards to underwater noise impacts to the harbour porpoise qualifying feature of this SAC, NE [RR-063] and [REP3-146] stated it did not agree that physical and permanent auditory injury should have been screened out at LSE stage, as mitigation is relied on. NE recommended that the pathway of 'physical and permanent auditory injury' should be assessed as LSE. NE did however confirm that it would expect no AEol on this site from this pathway due to the use of appropriate mitigation, as secured through the Marine Mammal Mitigation Protocol (MMMP) and Site Integrity Plan (SIP).

- 26.2.24. The Applicant [REP2-051] in response confirmed that physical and permanent auditory injury are not screened out from the HRA but are considered for AEoI. NE at D5 [REP5-093] stated that it accepted that this concern has been addressed by the Applicant. This pathway of effect is carried forward to consideration of AEoI.

FFC SPA

- 26.2.25. NE [RR-063] requested an assessment of the potential effects of the Proposed Developments on the seabird assemblage feature of FFC SPA. NE [RR-063] also advised that puffin, as a component of the FFC SPA seabird assemblage, needed to be considered as part of the assessment of impacts on the seabird assemblage. The Applicant provided an assessment in [REP2-036] and the seabird assemblage was subsequently screened in for LSE [REP4-009] [REP4-011] [REP4-013]. The Applicant [REP1-057] [REP2-036] also added puffin to its assessment and birds were apportioned for the breeding and non-breeding seasons in its Apportioning and HRA Updates Technical Note. The Apportioning and HRA Updates Technical Note was updated during the Examination [REP5-043] [REP7-051], with a final updated version submitted before the close [REP8-038].
- 26.2.26. During the Examination, the Applicant and NE agreed, [REP2-045], [REP8-043], that a separate displacement assessment for the Sandwich tern was not required. The Applicant therefore amended its HRA conclusions regarding displacement effects on the Sandwich tern qualifying feature of these SPAs to screen out LSE. The revised conclusions were presented in the Applicant's updated HRA Screening Matrices [REP4-009] and Integrity Matrices [REP4-011].
- 26.2.27. During the Examination, it was identified by NE [AS-041] [REP3-143] [REP3-146] that the common scoter qualifying feature of the GW SPA was missing from the Applicant's RIAA [APP-059] and Appendix 1 (HRA Screening Assessment) [APP-060]. The Applicant provided updated HRA Screening Matrices [REP4-009] to include an assessment of LSE on common scoter feature of the GW SPA. The Applicant concluded no LSE to common scoter, either alone or in combination with plans or projects. NE [REP5-089] [REP5-093] responded confirming it agreed with the Applicant's conclusion of no potential for LSE for this feature, alone or in-combination and was therefore satisfied that it can be screened out.

Inner Dowsing and Race Bank SAC and The Wash and North Norfolk Coast SAC

- 26.2.28. NE [RR-063] stated that it was unable to agree with the LSE conclusions for Inner Dowsing, Race Bank and North Ridge SAC and The Wash and North Norfolk Coast SAC, in respect of the Sandbanks which are slightly covered by seawater all of the time qualifying feature. NE advised that further evidence be provided to support the LSE conclusions. In response, the Applicant [REP3-101] confirmed that it had considered LSE to these two SACs (potential for indirect effects) in its RIAA [APP-059] and subsequently concluded no AEoI.

Summary of matters from Examination

- 26.2.29. The ExA [PD-020] sought comment from IPs on the Applicant's screening assessment for LSE and whether there were any additional European sites or qualifying features that ought to be included in the assessment. No comments were received in response from IPs, apart from NE [REP7-111] who confirmed it had no comments to make. NE [REP7-111] also confirmed in response to the RIES, that it was content with the Applicant's screening for LSE as updated during the Examination.

LSE assessment outcomes

- 26.2.30. The final list of all European sites considered by the Applicant for LSE are listed in Table 2-2 of the HRA Screening Matrices [REP4-009]. Those sites and features for which a conclusion of LSE was reached are listed [REP4-011, Table 1]. Table 7 of this chapter lists all European sites and qualifying features below. This table only differs from the Applicant's conclusion by the inclusion of the grey seal qualifying features of the Berwickshire and North Northumberland Coast SAC, on the basis that NE subsequently identified that the Proposed Development is within the foraging range from this SAC. The ExA has decided to carry this site and feature forward to consideration of AEoI.
- 26.2.31. As noted above, while IPs raised concerns about the Applicant's screening for LSE, these were resolved during the Examination. NE confirmed its joint position statement with the Applicant [REP7-111] its agreement with the Applicant's conclusions on LSE. The submitted final SoCG (offshore) between the Applicant and NE [REP8-042] also records agreement on the conclusions of the screening assessment.
- 26.2.32. The final SoCG between the Applicant and the MMO [REP8-030] records that the marine mammal SACs and pathways of effects screened for LSE was agreed during the Evidence Plan Process (EPP).

ExA's Reasoning

- 26.2.33. The ExA is satisfied, on the basis of the information provided with the application and during the Examination, that the correct impact-effect pathways on each European site and qualifying feature have been assessed and is satisfied with the approach to the assessment of alone and in-combination likely significant effects. The ExA has decided that the grey seal feature of the Berwickshire and North Northumberland Coast SAC should also be considered for AEoI and therefore has included in Table 7 below.

Taking into account the reasoning set out above, the ExA considers that the Proposed Development is likely to have a significant effect on the qualifying features of the European sites identified Table 7 below when considered alone, or in combination with other plans or projects

Table 8: European sites and features for which LSE could not be excluded

European site(s)	Qualifying Feature(s)
River Wensum SAC	Watercourses of plain to montane levels with <i>Ranunculus fluitantis</i>
	Desmoulin's whorl snail
	White clawed crayfish
	Bullhead
	Brook lamprey
Inner Dowsing, Race Bank and North Ridge SAC	Sandbanks which are slightly covered by sea water all the time
SNS SAC	Harbour porpoise

European site(s)	Qualifying Feature(s)
Moray Firth SAC	Bottlenose dolphin
Humber Estuary SAC	Grey seal
Berwickshire and North Northumberland Coast SAC	Grey seal
The Wash and North Norfolk Coast SAC	Sandbanks which are slightly covered by sea water all the time
	Harbour seal
GW SPA	Sandwich tern, breeding
	Common tern, breeding
	RTD, non-breeding
	Little gull, non-breeding
NNC SPA	Sandwich tern, breeding
	Common tern, breeding
	Pink-footed goose, non-breeding
	Dark-bellied brent goose, non-breeding
	Wigeon, non-breeding
	Knot, non-breeding
OTE SPA	RTD, non-breeding
Breydon Water SPA	Bewick's swan, non-breeding
	Avocet, non-breeding
	Golden plover, non-breeding
	Lapwing, non-breeding
	Ruff, non-breeding
The Wash SPA	Bar-tailed godwit, non-breeding
	Bewick's swan, non-breeding
	Black-tailed godwit, non-breeding
	Common scoter, non-breeding
	Curlew, non-breeding

European site(s)	Qualifying Feature(s)
	Dark-bellied brent goose, non-breeding
	Dunlin, non-breeding
	Gadwall, non-breeding
	Goldeneye, non-breeding
	Grey plover, non-breeding
	Knot, non-breeding
	Oystercatcher, non-breeding
	Pink-footed goose, non-breeding
	Pintail, non-breeding
	Redshank, non-breeding
	Sanderling, non-breeding
	Shelduck, non-breeding
	Turnstone, non-breeding
	Wigeon, non-breeding
Waterbird assemblage, non-breeding	
Gibraltar Point SPA	Bar-tailed godwit, non-breeding
	Grey plover, non-breeding
	Sanderling, non-breeding
Humber Estuary SPA	Avocet, breeding and non-breeding
	Bar-tailed godwit, non-breeding
	Bittern, non-breeding
	Black-tailed godwit, non-breeding
	Dunlin, non-breeding
	Golden plover, non-breeding
	Knot, non-breeding
	Redshank, non-breeding
	Ruff, non-breeding
	Shelduck, non-breeding

European site(s)	Qualifying Feature(s)
	Waterbird assemblage, non-breeding
Broadland SPA	Bewick's swan, non-breeding
	Gadwall, non-breeding
	Ruff, non-breeding
	Shoveler, non-breeding
	Whooper swan, non-breeding
	Wigeon, non-breeding
Ouse Washes SPA	Bewick's swan, non-breeding
	Black-tailed godwit, non-breeding
	Gadwall, breeding and non-breeding
	Garganey, breeding
	Pintail, non-breeding
	Pochard, non-breeding
	Ruff, non-breeding
	Shoveler, non-breeding
	Teal, non-breeding
	Whooper swan, non-breeding
	Wigeon, non-breeding
	Waterbird assemblage, non-breeding
Minsmere-Walberswick SPA	Avocet, breeding
	European white-fronted goose, non-breeding
	Gadwall, breeding and non-breeding
	Shoveler, breeding and non-breeding
	Teal, breeding
	Breeding bird assemblage
Nene Washes SPA	Bewick's swan, non-breeding
	Black-tailed godwit, breeding and non-breeding
	Shoveler, breeding and non-breeding

European site(s)	Qualifying Feature(s)
	Teal, non-breeding
	Wigeon, non-breeding
Alde-Ore Estuary SPA	Lesser black-backed gull, breeding
FFC SPA	Kittiwake, breeding
	Gannet, breeding
	Guillemot, breeding
	Razorbill, breeding
	Seabird assemblage
Coquet Island SPA	Sandwich tern, breeding
	Common tern, breeding
	Arctic tern, breeding
Farne Islands SPA	Arctic tern, breeding
	Sandwich tern, breeding
	Guillemot, breeding
	Seabird assemblage, breeding (kittiwake, puffin)
St Abb's Head to Fast Castle SPA	Seabird assemblage, breeding (guillemot)
Forth Islands SPA	Gannet, breeding
	Lesser black-backed gull, breeding
	Puffin, breeding
Imperial Dock Lock, Leith SPA	Common tern, breeding
Fowlsheugh SPA	Guillemot, breeding
	Kittiwake, breeding
Ythan Estuary, Sands of Forvie and Meikle Loch SPA	Sandwich tern, breeding
Troup, Pennan and Lion's Heads SPA	Kittiwake, breeding
	Guillemot, breeding
East Caithness Cliffs SPA	Guillemot, breeding
	Kittiwake, breeding

European site(s)	Qualifying Feature(s)
	Razorbill, breeding
North Caithness Cliffs SPA	Guillemot, breeding
Hoy SPA	RTD, breeding
Auskerry SPA	Arctic tern, breeding
Marwick Head SPA	Guillemot, breeding
West Westray SPA	Guillemot, breeding
Fair Isle SPA	Guillemot, breeding
Noss SPA	Gannet, breeding
	Guillemot, breeding
East Mainland Coast, Shetland SPA	RTD, breeding
Foula SPA	Guillemot, breeding
	Puffin, breeding
	RTD, breeding
Papa Stour SPA	Arctic tern, breeding
Ronas Hill – North Roe and Tingon SPA	RTD, breeding
	Great skua, breeding
Hermaness, Saxa Vord and Valla Field SPA	Gannet, breeding
	Great skua, breeding
NNC Ramsar	Sandwich tern, breeding
	Common tern, breeding
	Pink-footed goose, non-breeding
	Dark-bellied brent goose, non-breeding
	Wigeon, non-breeding
	Knot, non-breeding
	Pintail, non-breeding
Breydon Water Ramsar	Bewick's swan, non-breeding
	Lapwing, non-breeding
	Waterbird assemblage

European site(s)	Qualifying Feature(s)
The Wash Ramsar	Bewick's swan, non-breeding
	Black-tailed godwit, non-breeding
	Curlew, non-breeding
	Dark-bellied brent goose, non-breeding
	Dunlin, non-breeding
	Golden plover, non-breeding
	Grey plover, non-breeding
	Knot, non-breeding
	Lapwing, non-breeding
	Oystercatcher, non-breeding
	Pink-footed goose, non-breeding
	Redshank, non-breeding
	Ringed plover, non-breeding
	Sanderling, non-breeding
Shelduck, non-breeding	
Gibraltar Point Ramsar	Bar-tailed godwit, non-breeding
	Dark-bellied brent goose, non-breeding
	Grey plover, non-breeding
	Sanderling, non-breeding
Humber Estuary Ramsar	Bar-tailed godwit, non-breeding
	Black-tailed godwit, non-breeding
	Dunlin, non-breeding
	Golden plover, non-breeding
	Knot, non-breeding
	Redshank, non-breeding
	Shelduck, non-breeding
	Waterbird assemblage, non-breeding
Broadland Ramsar	Bewick's swan, non-breeding

European site(s)	Qualifying Feature(s)
	Gadwall, non-breeding
	Shoveler, non-breeding
	Wigeon, non-breeding
Ouse Washes Ramsar	Bewick's swan, non-breeding
	Gadwall, breeding and non-breeding
	Pintail, non-breeding
	Shoveler, non-breeding
	Teal, non-breeding
	Whooper swan, non-breeding
	Wigeon, non-breeding
	Waterbird assemblage, non-breeding
Minsmere-Walberswick Ramsar	Avocet, non-breeding
	European white-fronted goose, non-breeding
	Gadwall, non-breeding
	Shoveler, non-breeding
	Teal, non-breeding
Nene Washes Ramsar	Bewick's swan, non-breeding
	Black-tailed godwit, breeding and non-breeding
	Shoveler, breeding and non-breeding
	Whooper swan, non-breeding
Alde-Ore Ramsar	Lesser black-backed gull, breeding
Ythan Estuary, Sands of Forvie and Meikle Loch Ramsar	Sandwich tern, breeding

26.3. CONSERVATION OBJECTIVES

- 26.3.1. The Conservation Objectives for the European sites and qualifying features for which LSE was identified by the Applicant at the point of the DCO application are included within the Applicant's RIAA [APP-059, Sections 6-9]. Information on the baseline and current conservation status was also provided in the same sections.

26.3.2. As noted above, the Applicant provided links to Conservation Objectives and Supplementary Advice on Conservation Objectives for the grey seal qualifying feature of the Berwickshire and North Northumberland Coast SAC [REP7-062], following a request from the ExA [PD-020].

26.3.3. The ExA is satisfied that the SoS has access to the correct Conservation Objectives for use in an appropriate assessment of the Proposed Development.

26.4. FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY

26.4.1. The outcomes of the Applicant's assessment of effects on integrity are provided, and summarised in the RIAA [APP-059, Sections 6 to 10], with the exception of the grey seal qualifying feature of the Berwickshire and North Northumberland Coast SAC, as described above. A total of 31 European sites in England/English waters and 20 European sites in Scotland/ Scottish waters were carried forward by the Applicant to consideration of AEoI [APP-059] [REP4-009], as identified in Table 7 above.

26.4.2. At the point of the application, the Applicant concluded that AEoI could be excluded from the Proposed Development alone for all European sites considered. The Applicant, however, was unable to exclude AEoI to the following European sites and features from the Proposed Development in-combination with other projects and plans:

- NNC SPA - Sandwich tern.
- GW SPA – Sandwich tern.
- FFC SPA – kittiwake.

26.4.3. Notwithstanding the conclusion reached by the Applicant that there would be no AEoI of the gannet, guillemot, and razorbill qualifying features of the FFC SPA from the Proposed Development (alone or in-combination), the Applicant also provided a without prejudice case for these species with its application for in-combination effects, in the event that the SoS was unable to reach the same conclusion [APP-074][APP-075]. Although as noted at paragraphs above, the position with regards to the without prejudice case evolved during the Examination. See further discussion of these matters at Section 26.8 below.

26.4.4. The Applicant's conclusion on AEoI was summarised at Table 10-1 of the RIAA [APP-059] and presented in the HRA Integrity Matrices [REP4-011].

26.4.5. Matters relating to the Applicant's conclusions on AEoI were raised by IPs, including NE, and were examined further during the Examination. The RIES [PD-020] at Section 3.3 summarises the matters raised in respect of AEoI up to Deadline 5 of the Examination. Where IPs and the Applicant were in agreement that an AEoI could be ruled out, the ExA had no reason to question or dispute the agreed findings of the parties. Where there was discussion in the Examination because of a dispute between the parties, this Chapter of the Recommendation Report discusses the conclusions with respect to AEoI. The ExA's consideration of AEoI is presented in the following Sections:

- Section 29.5 – Findings in Relation to AEoI – Onshore sites;
- Section 29.6 – Findings in Relation to AEoI – Offshore Annex 1 Habitats;
- Section 29.7 – Findings in Relation to AEoI – Marine mammals;
- Section 29.8 – Findings in Relation to AEoI – Offshore and intertidal ornithology; and
- Section 29.9 – Findings in Relation to AEoI - AEoI assessment outcome.

In-combination Assessment

- 26.4.6. The Applicant's RIAA [APP-059, Sections 6 to 9] identifies the projects and plans considered for the in-combination assessment at the AEoI stage. The RIAA also confirms that it was agreed with stakeholders at the marine mammals Expert Topic Group (ETG) during the pre-application EPP that the potential effects from Unexploded Ordnance (UXO) clearance would be assessed in a separate Marine Licence and not as part of the application. The potential in-combination effects from UXO clearance at other OWFs during piling at SEP and DEP are however assessed as part of the Applicant's HRA for the application.
- 26.4.7. In respect of marine mammals, NE [RR-063] queried why Outer Dowsing OWF had not been considered as potentially overlapping with the Proposed Developments in respect of the Applicant's assessment of the SNS SAC. The Applicant [REP2-051] responded that four other OWFs are considered for the summer period, including Outer Dowsing OWF. Updated assessments for the summer area include Outer Dowsing OWF and are provided in the Marine Mammals Technical Note [REP3-115]. Explanation for the updated assessment areas is provided in Section 5.4.1.1 of that note. In response to the RIES, NE [REP7-111] confirmed that the Applicant has sufficiently addressed its concerns and it has no remaining concerns on the matter.
- 26.4.8. In respect of ornithology, discussions were also held throughout the Examination concerning the other foreseeable projects that the Applicant has/should include in its in-combination modelling and HRA assessments. NE identified [REP5-091] that several North Sea OWF projects (as Tier 4 or 5 projects) should be included in the in-combination assessment, where this would be meaningful. These included OWFs at scoping or Preliminary Environmental Information Report (PEIR) stage, namely: Rampion 2, Five Estuaries, North Falls, Outer Dowsing, Dogger Bank South (two projects) and Dogger Bank D; and the Berwick Bank OWF in Scottish Waters. Having reviewed the information available for these projects so far, NE considered that the only project for which sufficient data was available to carry out a quantitative assessment of impacts at the time of the Proposed Developments DCO submission was Rampion 2. Although even then, limited confidence could be placed on the impact assessment values as they had not been subject to detailed consultation. NE confirmed that the Applicant has considered all appropriate sets of plans and projects at this stage, as data for the aforementioned projects will not be available until after the end of Examination. However, NE stated that if this information become available prior to determination for the Proposed Developments of SEP and DEP, it may need to seek the incorporation of such data into any consultation request received from the SoS.
- 26.4.9. NE [REP5-091] flagged that one exception to the above is Berwick Bank OWF, as a Section 36 application since been submitted to Marine Scotland and data is therefore available. NE consider that any relevant impacts presented within the Berwick Bank application should be submitted to the Examination. NE did, however, also confirm that based on recent submissions from Hornsea 4 (which now includes Berwick Bank), the additional data from Berwick Bank would not affect the AEoI judgements NE has provided.
- 26.4.10. Based on the findings of the Examination relating to the projects and the information that would be most suitable for the assessment of AEoI, and confirmation from NE in this regard, the ExA is satisfied that an assessment of AEoI from the Proposed Development in combination with other plans or projects can be based on this information and that no other plans or projects are required to be taken into account.

Mitigation measures

- 26.4.11. The Applicant's RIAA [APP-059, Sections 6-9] identified both embedded and additional mitigation measures secured to avoid or reduce impacts to European sites. These were considered in the Applicant's assessment of AEoI [APP-059]. A Schedule of Mitigation and Mitigation Routemap [APP-282] was provided with the application, which detailed how and where these mitigation measures are secured within the dDCO [APP-024]. The Applicant updates this document before the end of the Examination [REP8-021]. Mitigation specific to each receptor group/European site are described in further below, as relevant.

26.5. FINDINGS IN RELATION TO AEoI – ONSHORE SITES

- 26.5.1. The Applicant considered three onshore European sites for AEoI: the River Wensum SAC, the NNC SPA and NNC Ramsar. NE [RR-063] raised concerns with the Applicant's assessment of certain qualifying features for these sites, which related to the securing of mitigation measures.

River Wensum SAC

- 26.5.2. The RIAA [APP-059 Section 6] assessed the LSE pathways on the Watercourses of plain to montane levels with *R. fluitantis* and Desmoulin's whorl snail qualifying features of this SAC. As noted in the RIES [PD-020], the Applicant provided an assessment of AEoI for the white-clawed crayfish, brook lamprey and bullhead qualifying features of this SAC [REP2-050]. This was in response to concerns raised by NE [RR-063] regarding potential bentonite breakout during drilling activities and in respect of the following potential effect pathways:
- indirect effects on the white-clawed crayfish, brook lamprey and bullhead qualifying features within the SAC boundary arising from geology/ contamination and groundwater /hydrology effects during the construction phase; and
 - indirect effects on the white-clawed crayfish, brook lamprey and bullhead qualifying features present within ex-situ habitats /functionally linked land of the SAC arising from geology/ contamination and groundwater/ hydrology effects during the construction phase.
- 26.5.3. The updated assessment is also summarised in the HRA Integrity Matrices [REP4-011].
- 26.5.4. The assessment [REP2-050] concluded that, taking account of the mitigation measures secured in the updated Outline Ecological Management Plan (OEMP) (final version [REP8-025]) and the updated Outline Code of Construction Practice (CoCP) (final version [REP8-023]), there would be no AEoI to this SAC and its qualifying features. In respect of bentonite, the Applicant proposes to develop a Bentonite Breakout Plan (BBP) to be included in the final CoCP, which is secured by DCO R19 of the dDCO (final version [REP8-005]) and must accord with the Outline CoCP [REP8-023].
- 26.5.5. NE [REP7-111] stated in response to the RIES [PD-020] that its general advice remained unchanged that outline mitigation measures should be included as separate plans as part of the consenting phase. NE was anticipating the Applicant provide an Outline BBP to the Examination and identified concerns with wording in the OCoCP. NE [REP7-111] stated that until an outline bentonite mitigation plan is agreed, it is unable to conclude with certainty that the likelihood of AEoI to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC can be avoided. NE did however also reiterate its previous view that once the mitigation measures are agreed, it is likely to agree that the risk of AEoI to the River Wensum SAC will be significantly reduced. NE also stated that it wished to be a named consultee to the outline BBP, along with the EA [REP7-066].

- 26.5.6. The Applicant [REP7-062] in response to the RIES, confirmed that the Outline CoCP [REP8-023, Section 7.1.4] includes the mitigation measures set out in its Onshore RIAA Technical Note [REP2-050] in relation to sediment management, pollution prevention and bentonite breakout. It also includes a commitment to report all bentonite breakouts within designated sites to NE within 24 hours.
- 26.5.7. The ExA issued a final Rule 17 [PD-022] prior to the end of Examination requesting the Applicant and NE provide without prejudice wording for a Requirement within the dDCO which secures mitigation that removes or reduces the risk of AEoI to the white-clawed crayfish, brook lamprey and bullhead features of the SAC, before any work on the Proposed Development could commence.
- 26.5.8. In response NE [REP8-106, Appendix I5] reiterated NE's position that until an outline bentonite mitigation plan is agreed, it is unable to conclude with certainty that the likelihood of AEoI to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC can be avoided. Again, noting that once the mitigation measures are agreed, it is likely to agree that the risk of AEoI to the River Wensum SAC will be significantly reduced. This position is also noted in NE's final SoCG (onshore) with the Applicant [REP8-031].
- 26.5.9. The Applicant [REP8-052] in response to the ExA's Rule 17 letter, stated that it did not consider such a requirement to be necessary. Stating that risk of bentonite breakout is not unique to the Proposed Development and the Applicant is proposing to control the risk in an industry standard manner and in accordance with other DCOs and other consenting regimes. The Applicant considers that mitigation measures are already sufficiently secured that remove any risk of AEoI to the white-clawed crayfish, brook lamprey and bullhead qualifying features of the River Wensum SAC, as secured through the CoCP (R19 of the dDCO [REP8-005]). The Applicant listed examples of the approaches to this impact pathway in other DCOs/DCO applications.
- 26.5.10. In respect of all other qualifying features of the SAC and all other potential effect pathways considered by the Applicant for the white-clawed crayfish, brook lamprey and bullhead qualifying features, NE [REP7-066] has confirmed its agreement with the Applicant's conclusion of no AEoI.

ExA's Reasoning

- 26.5.11. In respect of the onshore HRA concerns, the ExA find the ability to conclude firmly on whether an AEoI could be ruled out was frustrated by the Applicant not providing the necessary plans and documents requested by NE. The ExA is not content that effective conclusions on whether an AEoI could be ruled out or not are proposed by the Applicant to be deferred to a post-consent stage. Nonetheless, the ExA accepts that, in particular to the mitigation identified for the River Wensum SAC, the mitigation measures are not unique to the Proposed Development or anything unusual for the industry. This gives some reassurance that potential mitigation could be adopted to reduce the risk of an AEoI.
- 26.5.12. The ExA agrees with NE that the risks need to be understood, considered appropriately and mitigated sufficiently before any development takes place. The submission of the relevant mitigation documents in advance of commencement would allow this to happen and ensure proper measures are taken.
- 26.5.13. The ExA advises the SoS that an AEoI could be ruled out for all onshore HRA concerns in relation to the SAC.

NNC SPA and Ramsar

- 26.5.14. The RIAA [APP-059, Section 6] assessed the LSE pathways to this SPA and Ramsar. The assessment is also summarised in the HRA Integrity Matrices [REP4-011]. The assessment concluded no AEol following adherence to the mitigation measures presented in the OEMP (final version [REP8-025]) and the Outline CoCP (final version [REP8-023]), as secured by the dDCO. During the Examination, NE [RR-063] raised concerns with the Applicant's assessment of pink-footed geese (PFG) of the SPA and Ramsar, which related to mitigation measures. In their Local Impact Reports, both Broadland District Council (BDC) [REP1-066] and South Norfolk Council (SCN) [REP1-090] noted the potential for impact on PFG resulting from the Applicant's proposed cable routes, which have the potential to compromise post-harvest cereal stubs, sugar beet tops etc. Both Local Authorities advised that a PFG Management Plan should be a requirement of any consent. These representations were subject to further discussion during the Examination.
- 26.5.15. As documented in the RIES [PD-020, Table 3-1], NE stated that it was developing standard advice for mitigation measures to be adopted to mitigate disturbance impacts to PFG of the SPA and Ramsar, which would be discussed with the Applicant with a view to secure through the dDCO [RR-063]. At the point of publication of the RIES, NE [REP5-094] and the Applicant [REP5-049] confirmed discussions on this matter were still ongoing.
- 26.5.16. NE confirmed [REP7-111 and REP7-112] that it understood from the Applicant that they do not wish to progress best practice guidance on mitigation for PFG and therefore, there was insufficient time remaining within the Examination to inform an agreed PFG mitigation plan. NE noted that the Applicant had committed to a PFG mitigation plan within the OEMP and will commit to further engagement with NE post examination. However, NE's general advice remained that outline mitigation measures should be included as separate plans as part of the consenting phase. NE stated that its concerns remain as to what the PFG mitigations will include and therefore was unable to provide the necessary comfort that the mitigation measures will remove or suitably reduce the risk of AEol to the PFG qualifying feature of the SPA and Ramsar. NE advised that a condition be added to the DCO that ensures that until the PFG mitigation measures are agreed no works could commence.
- 26.5.17. The Applicant submitted an updated OEMP to include further text regarding PFG and a PFG mitigation plan [REP7-039, Section 3.3.1].
- 26.5.18. The ExA issued a Rule 17 letter [PD-022] to request the Applicant and NE provide without prejudice wording for a Requirement within the dDCO which secures mitigation that removes or reduces the risk of AEol to the PFG feature of the NNC SPA and Ramsar, before any work on the Proposed Development could commence.
- 26.5.19. NE submission [REP8-106] confirmed that it had been unable to resolve its queries with the Applicant to a satisfactory level and therefore, is unable to provide the SoS with the necessary comfort that the outline mitigation measures within the OEMP will, beyond reasonable scientific doubt, suitably reduce the risk of AEol to the overwintering PFG qualifying feature of the SPA and Ramsar in-combination with other plans or projects. NE's response reiterated a number of comments made to the Applicant on the wording in the OEMP, including reference to the 10.4km distance, to which it continues to advise up to 20km, amongst other matters of buffers and wording. NE stated to the Applicant that while it would normally welcome a more detailed project specific condition, it could not currently agree with the nuances of the wording, and therefore at this late stage would be to include generic wording for a condition/requirement.

- 26.5.20. NE [REP8-106], in summary of its position, requested that the dDCO include a generic condition securing that a standalone PFG mitigation plan will be submitted to the Local Authorities for agreement with the relevant ANCBs at least four months prior to any works commencing to ensure that appropriate mitigation measures will be agreed prior to any onshore works commencing. In principle, the Applicant did not agree that this was necessary [REP8-062].
- 26.5.21. The Applicant included minor additions to the OEMP [REP8-025] in respect of PFG. In response to the ExA's Rule 17, the Applicant [REP8-052] stated that it considers that a standalone Requirement relating to mitigation of potential impacts on PFG is unnecessary as the mitigation has already been adequately secured. The Applicant confirmed that the commitment to provide a PFG mitigation plan is included in the OEMP [REP8-025], which is secured by R13 of the dDCO [REP8-005] and requires an Ecological Management Plan (EMP) to be submitted to approved by the Local Authorities, in consultation with NE and other bodies, prior to the commencement of any phase of the onshore works. The Applicant stated that the wording of the latest OEMP [REP8-025] is an example of what could be included within the management plan, with the exact details to be confirmed and finalised once pre-construction surveys have concluded. It considers that this demonstrates that mitigation is readily available.
- 26.5.22. Notwithstanding the Applicant's view that mitigation is sufficiently secured, it provided drafting for a requirement on a without prejudice basis in [REP8-052]. The Applicant stated why it considered a 10.4km buffer zone to more than sufficient to remove the risk of any AEoI. The Applicant stated that it was not aware of any precedent for a standalone requirement for PFG, stating that the approach it proposed (i.e., through the OEMP) is similar to that applied in Hornsea Project Three (Hornsea 3) for example. It is noted that the Applicant has included in its drafting a sub-paragraph (4) that would allow the requirement for a scheme of mitigation to be waived by the planning authority, following consultation with NE, if this was considered to be unnecessary.

ExA's Reasoning

- 26.5.23. The ExA notes that BDC and SNC have requested that a PFG management plan be secured by a requirement in the rDCO. In addition, NE required best practice measures to be taken and the Applicant has, effectively, declined and sought its own approach to mitigation that does not sit squarely with NE's concerns for the PFG. The ExA agree with NE that the risks need to be understood, considered appropriately and mitigated sufficiently before any development takes place. The submission of the relevant mitigation documents in advance of commencement would allow this to happen and ensure proper measures are taken. If the mitigation for PFG is found, post-consent, not to reduce the risk of an AEoI, the Applicant would retain the option of a submitting mitigation based upon best practice, thus resolving NE's concerns. The ExA have therefore proposed amendments in the rDCO to R13 to require delivery and approval of these plans prior to the commencement of the development.
- 26.5.24. The ExA advises the SoS that, subject to these amendments to the rDCO, it can be concluded that an AEoI could be ruled out for all onshore HRA concerns. If the SoS is minded not to include such amendments in the final DCO, the ExA would advise that an AEoI could not be ruled out at this stage in the absence of appropriate mitigation measures.

26.6. FINDINGS IN RELATION TO AEoI – OFFSHORE ANNEX 1 HABITATS

26.6.1. The RIAA [APP-059, Section 7] comprises the Applicant's assessment of AEoI to European sites designated for (offshore) Annex 1 Habitat/benthic ecology qualifying features. The assessment is also summarised [REP4-011]. The Applicant considered two European sites for AEoI, the Inner Dowsing, Inner Dowsing, Race Bank and North Ridge SAC and The Wash and North Norfolk Coast SAC. This was in respect to their qualifying feature Sandbanks which are slightly covered by seawater all of the time.

Inner Dowsing, Race Bank and North Ridge SAC

26.6.2. The RIES [PD-020, Table 3-2] summarises matters raised in respect of this SAC. At the start of the Examination, NE [RR-063] was of the view that AEoI could not be ruled out on this SAC on the basis of the information submitted with the DCO application. NE advised that that further evidence be provided to support the Applicant's conclusion. This was in respect of the impact pathways: increased suspended sediment concentration (SSC) and deposition and changes in physical processes (affecting sediment supply).

26.6.3. The Applicant sought to address NE's comments at D3 [REP3-093] and responded [REP3-107] on this matter.

26.6.4. Following receipt of this information, NE [REP3-093] confirmed that it agreed with the Applicant's conclusion of no AEoI to this SAC and qualifying feature. This position is also confirmed by NE [REP5-093] (latest version [REP8-107]), by the Applicant [REP7-066], and jointly between the parties in the final SoCG [REP8-042].

ExA Reasoning

26.6.5. No issues regarding benthic or oceanographic features in respect of this SAC were pursued or sustained in the Examination. The aforementioned table [REP8-042] alongside the SoCG with the MMO [REP8-030] confirms no outstanding issues or challenges with regards to AEoI conclusions.

26.6.6. The ExA has no substantive reasons or reasoning to disagree with the joint positions of the Applicant and the ANCB. The ExA agrees with the joint conclusions reached that an AEoI could be ruled out for the above site.

The Wash and North Norfolk Coast SAC

26.6.7. The RIES [PD-020, Table 3-2] summarises the matters raised in respect of this SAC. NE [RR-063] initially advised that further evidence be provided to support the Applicant's conclusion of no LSE.

26.6.8. The Applicant [REP3-101] confirmed that it had considered LSE to The Wash and North Norfolk Coast SAC (potential for indirect effects) in its RIAA [APP-059] and concluded no AEoI. The Applicant sought to address NE's comments on marine processes at D3 [REP3-093] following comments from NE at D2 [REP2-062] on the first iteration of that document. The Applicant [REP3-093, Figure 10] presented the zone of potential influence on the tidal regime in the context of marine protected areas, including the SACs and provided written rebuttals [REP3-107] on this matter.

26.6.9. As for Inner Dowsing, Race Bank and North Ridge SAC above, following receipt of this information, NE confirmed that it agreed with the Applicant's conclusion of no

AEol to this SAC and qualifying feature [REP3-093] [REP7-066] [REP8-107] [REP8-042].

ExA's Reasoning

- 26.6.10. No issues regarding benthic or oceanographic features were pursued or sustained in the Examination in respect of this SAC. The aforementioned tables [REP8-042] [REP8-043] alongside the SoCG with the MMO [REP8-030] confirms no outstanding issues or challenges with regards to AEol conclusions.
- 26.6.11. The ExA has no substantive reasons or reasoning to disagree with the joint positions of the Applicant and the ANCB. The ExA agrees with the joint conclusions reached that an AEol could be ruled out for the above site.

26.7. FINDINGS IN RELATION TO AEol – MARINE MAMMALS

- 26.7.1. This Section should also be read in conjunction with Chapter 8 Marine Mammals of this Recommendation Report, which details matters in the Examination relating to marine mammals, in particular Section 9.4 concerning assessment methodology, of which there is overlap with the HRA matters.
- 26.7.2. The Applicant's RIAA [APP-059, Section 8] comprises the Applicant's assessment of AEol to European sites designated for marine mammal qualifying features. The assessment is also summarised in the HRA Integrity Matrices [REP4-011]. During the Examination, additional assessments were provided initially at D3 [REP3-115], with the latest version submitted at D7 [REP7-056].
- 26.7.3. The RIES [PD-020, Table 3-3, Paragraphs 3.3.11 ff] summarised the ExA's understanding of marine mammal matters relating to AEol up to D5. However, further Applicant documents and advice from NE were expected and received after D5. The Applicant and NE were requested through the RIES [PD-020] to provide an updated joint position statement regarding marine mammal SACs and their qualifying features. This was provided at D7 [REP7-066]. However, it was noted in the position statement that NE was still expecting a response from the Applicant on two outstanding queries on the population modelling at D7. Table 3 of the Position Statement listed out all European sites and features considered for AEol and pathways of effect, both alone and in-combination, identifying any areas of outstanding agreement. Outstanding matters related to the following:
- 1) SNS SAC – harbour porpoise:
 - potential in-combination disturbance effects due to underwater noise from piling at other OWF (in-combination);
 - potential in-combination disturbance effects due to underwater noise sources, other than piling (in-combination); and
 - overall in-combination disturbance effects from all noise sources (in-combination)
 - 2) Moray Firth SAC – bottlenose dolphin:
 - disturbance from underwater noise (in-combination).
 - 3) Humber Estuary SAC – grey seal:
 - disturbance from underwater noise (in-combination).
 - 4) The Wash and North Norfolk Coast SAC – harbour seal:
 - potential for disturbance at harbour seal haul-out sites (alone); and

- disturbance from underwater noise (in-combination).
- 26.7.4. Following publication of the RIES, NE [REP6-029] provided further advice. This stated that overall NE considered the marine mammal population modelling fit for purpose, but requested further information on two aspects of the cumulative assessment and associated population modelling as follows:
- justification for downgrading the magnitude of the assessment for bottlenose dolphin and thereby excluding the species from the population modelling; and
 - demonstration that the project-alone piling scenario that has been used as the WCS is indeed the worst-case.
- 26.7.5. In response, the Applicant provided the information in its final updated Marine Mammals Technical Note and Addendum (Revision B) [REP7-056]. NE provided its further advice and position on the updated Technical Note [REP8-104].
- 26.7.6. The final SoCG between the Applicant and NE [REP8-042] confirmed NE's agreement with the Applicant's conclusion of no AEol from the Proposed Development alone for all European sites and qualifying features considered in the assessment.
- 26.7.7. The SoCG [REP8-042] also records that NE agrees with the Applicant's conclusion of no AEol in-combination with plans or projects for all European sites considered in the assessment, except for the harbour porpoise feature of the SNS SAC and in respect of the following impact pathways:
- potential in-combination disturbance effects due to underwater noise from piling at other OWF;
 - potential in-combination disturbance effects due to underwater noise sources, other than piling; and
 - overall in-combination disturbance effects from all noise sources.
- 26.7.8. By the end of the Examination, this was the only matter of outstanding disagreement between the Applicant and NE. The reason for this remaining disagreement arises from NE's position on the SIP and the effectiveness of multiple SIPs to reduce the risk to harbour porpoise.
- 26.7.9. The final SoCG between the Applicant and the MMO [REP8-030] records that the MMO defers to NE to comment on the Applicant's RIAA, but maintained a watching brief on any HRA matters relating to the draft Deemed Marine Licences (dDMLs).
- 26.7.10. The sub-sections below describe matters following issue of the RIES for each European site considered for AEol, where concerns were raised in the Examination, together with the ExA's conclusion on AEol.

SNS SAC – Harbour Porpoise

- 26.7.11. The RIES [PD-020, Table 3-3] identified outstanding matters, or matters for which the ExA required further clarification, in respect of harbour porpoise qualifying feature of the SNS SAC by D5 of the Examination. These included the following:
- WCS for simultaneous piling at the Proposed Development;
 - assumptions applied for the assessment of disturbance effects from underwater noise during construction (SEP or DEP in-isolation) - seasonal average;
 - potential construction effects of any changes in prey availability due to underwater noise impacts (SEP and DEP in-isolation);
 - in-combination assessment of disturbance from noise, including:
 - assessment methodology – in-combination assessment with other OWFs.

- assessment of effects from seismic and geophysical sources.
 - assessment methodology – seasonal averages.
 - overall in-combination disturbance effects from all noise sources.
 - mitigation – SIP;
 - mitigation – vessel code of conduct/ management plan; and
 - monitoring - Offshore In-Principle Monitoring Plan (OIPMP)⁸.
- 26.7.12. NE [REP7-111] in response to the RIES clarified that in respect of the WCS simultaneous piling and the assumptions applied to the assessment of disturbance effects from underwater noise during effects (SEP or DEP in-isolation), the information provided by the Applicant [REP3-115] had addressed NE's concerns on these matters and it had no outstanding concerns.

- 26.7.13. With respect to potential construction effects of any changes in prey availability due to underwater noise impacts, NE [REP7-111] stated that it maintains that an assessment of impacts to sand eel would be beneficial but considers it unlikely that impacts to sand eels for marine mammals will have an AEoI from this pathway. NE stated that this is due to sufficient alternative prey availability.

In-combination assessment and mitigation - SIP

- 26.7.14. Concerning the in-combination assessment with other OWFs, NE confirmed the Applicant had sufficiently addressed its concerns [REP7-111].
- 26.7.15. With respect to the concern raised by NE with regards to the assessment of effects from seismic and geophysical sources, the Applicant [REP7-062] considered that the information provided at D3 [REP3-115, Section 5.4.1.1.2] was sufficient, and that this matter is resolved, although it was awaiting formal response from NE. NE [REP8-107] confirmed that the Applicant has provided an illustrative assessment of geophysical and seismic surveys as a mobile source, which addresses its original comment.
- 26.7.16. As noted in the RIES [PD-020], NE [RR-063, Point 84] [REP3-146] raised concerns that the seasonal averages presented by the Applicant in its RIAA [APP-059]. NE advised the Applicant to present an assessment of the disturbance due to piling across the whole season. NE stated this should be applied to all seasonal assessments undertaken but is of particular importance to the in-combination assessment.
- 26.7.17. The Applicant responded [REP3-115]. This confirmed that the assessment as presented in the RIAA has been updated to reflect the noisy days for all activities throughout the full relevant season. NE [REP5-089, REP5-093] acknowledged the updated assessment and stated the updated in-combination assessment of seasonal disturbance to the SNS SAC shows an increased maximum and average in-combination overlap with the summer and winter area, with all scenarios exceeding the threshold.
- 26.7.18. NE [RR-063] had from the start expressed concerns that the number of harbour porpoise potentially disturbed could exceed a significant effect in both EIA and HRA terms. NE stated that in terms of HRA, the Applicant has presented in the RIAA [APP-059] that 12.0% of the winter area of the SNS SAC could be subject to noise disturbance in an in-combination scenario over the season. This is in exceedance of the 10% threshold for significant disturbance over a season.

⁸This matter was considered more generally for marine mammals, with specific comments made by NE in respect of harbour seal. Therefore, the OIPMP is discussed under harbour seal below.

- 26.7.19. NE [RR-063] acknowledged that the Applicant considers that the measures in the SIP will mitigate disturbance; however, NE disagreed with this. NE therefore required further safeguards which ensure that a significant impact to the North Sea Management Unit (MU) population will not occur. NE stated that the Applicant must present further information which demonstrates that a significant effect/AEol could not occur on the harbour porpoise feature of the SNS SAC as a result of in-combination underwater noise. Specifically, what would happen in the event that there are multiple other OWF construction or noise producing projects proposed at the same time.
- 26.7.20. NE reiterated that it maintains its concerns around the SIP process and considers that the Applicant should commit to mitigation now in-principle, to reduce impacts and therefore the potential for AEol in-combination. NE [RR-063, REP3-146] stated that there are additional mitigation measures available to the Proposed Development and asked that the Applicant consider committing to these at this stage to minimise the risk of AEol to the SAC from noise disturbance. NE expressed its significant concerns over the effectiveness of multiple SIPs to reduce the risk. In particular, it stated that the SIP has limited measures to mitigate exceedance of the seasonal threshold.
- 26.7.21. The Applicant [REP3-115] stated that with the development of project-specific SIPs to deliver the appropriate mitigation and management measures across projects and management by the MMO, there would be no significant disturbance and no AEol of the SNS SAC in relation to the conservation objectives for harbour porpoise as a result of SEP and DEP in-combination with other plans and projects. The Applicant stated [REP3-115] that as both SEP and DEP are located outside of the SNS SAC summer and winter areas, there is the potential for several options to reduce the potential contribution to the underwater noise in-combination effects, for example: scheduling of piling based on specific locations within the SEP or DEP wind farm sites to avoid maximum overlap with seasonal areas, for example, piling at a location which could have potential overlap with the winter area during the summer period.
- 26.7.22. NE [REP5-089, REP5-093, REP5-094] reiterated its concerns with regards to in-combination disturbance to the harbour porpoise feature of the SNS SAC and how this will be effectively mitigated. NE considered it likely that measures will need to be implemented to reduce the noise levels of individual projects (e.g. through the use of noise abatement systems) and/or limit the number of projects undertaking noisy works in the relevant season and area of the SNS SAC. NE [REP5-093] identified that the Applicant has referred to a potential mitigation measure, namely, to undertake piling outside the relevant season and area of the SNS SAC. NE strongly advised that the Applicant commit to a mitigation measure such as this now, as this would reduce the risk to the Proposed Development compared to delaying consideration of mitigation much closer to construction. NE commented that such a commitment would need to be secured through an appropriate condition or within outline mitigation documentation.
- 26.7.23. NE [REP5-094] in its response to the ExA's WQ3 [PD-017] stated that its confidence in the SIP process could be increased through greater regulatory control. NE explained that from its experience to date, HRAs on submitted SIPs are not carried out by the MMO. It considered that this would provide a further element of regulatory scrutiny and potentially identify additional mitigation. NE commented that alternative options could also be considered in the future, for example a cross-regulator Appropriate Assessment prior to the relevant season of the SNS SAC, which identifies all projects that will occur in the season and demonstrates that AEol will not occur, with additional controls (where appropriate) placed on projects that submit applications for that relevant season but after the Appropriate Assessment has been undertaken. However, NE recognised that the above is not in the gift of the Applicant.

- 26.7.24. The Applicant [REP5-049] restated that the SIP is effective means of control. The MMO [REP5-080] also confirmed its view that the SIP currently provides sufficient control over the timing and nature of noisy activities to ensure that the relevant in-combination disturbance impact thresholds for marine mammals would not be breached.
- 26.7.25. The Applicant [REP7-062] [REP8-042] maintained throughout the Examination that the SIP is the required and appropriate approach to manage disturbance within the SNS SAC, and therefore this is the approach the Proposed Developments must take. The Applicant reiterated that although the currently expected in-combination scenario shows exceedance of both the spatial (20%) and seasonal (10%) thresholds, this is based on a precautionary approach to determining the projects that are likely to be undertaking activities at the same time. The Applicant stated it is expected that the in-combination scenario that has been assessed will change significantly before piling at SEP and DEP is undertaken. Therefore, the Applicant considers that the assessments provided within the final SIP will be significantly different (i.e., improved/impacts reduced) to those stated in [REP3-115]. Although the Applicant provided a number of mitigation measures and management options within the In-Principle SIP [APP-290], it maintains that it is not appropriate at this stage to determine which of those would be required at the time of SEP and DEP undertake piling and that this is the standard approach.
- 26.7.26. The Applicant considers the objections by NE are not necessarily specific to the Proposed Development, but more a general concern about management and implementation of multiple SIPs from multiple projects [REP8-067, RIESQ17]. The Applicant also observes that the SoS's decision on Hornsea 4 confirms that the SIP remains the appropriate means of mitigating disturbance effects, thus supporting the Applicant's position on this matter [REP8-052].
- 26.7.27. Condition 14 of Schedule 10 to the dDCO [REP8-005] requires that no piling activities can take place until a SIP, which accords with the principles set out in the In-Principle SIP [APP-290] for the SNS SAC, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.
- 26.7.28. NE's position regarding the implementation of SIPs was maintained until the close of Examination, with NE [REP8-042] stating that it had outstanding concerns with the conclusion of no AEoI in-combination due to effectiveness of the SIP process in the post-consent phase.

Mitigation - vessel code of conduct/ management plan

- 26.7.29. As noted in the RIES [PD-020], NE [RR-063] advised that a standalone vessel code of conduct/management plan be secured as a consent condition and that it contain appropriate measures for marine mammal mitigation.
- 26.7.30. The Applicant's response [REP3-107] to NE's comments at D2 stated that NE had noted that the Vessel Code of Conduct, formerly Annex 1 of the MMMP, had been moved to the Outline Project Environmental Management Plan (OPEMP) (latest version [REP7-035, Section 5.3.1]. Requirement for a final Project Environmental Management Plan (PEMP) would be secured through the conditions of the DMLs in the dDCO (latest version is [REP8-008]), which 'conditions' at 12(d)(vii) the requirement for "*a code of conduct for vessel operators to reduce risk of injury to mammals*".
- 26.7.31. NE [REP7-111] subsequently confirmed that the Applicant has sufficiently addressed its concerns in its D3 response and there are no remaining concerns.

ExA's Reasoning

- 26.7.32. The ExA notes that NE's outstanding concerns in respect of in-combination noise impacts relate to mechanisms for strategic regulatory control, rather than further actions required by the Applicant. The ExA acknowledges the MMO's confidence in the process and considers that it has been provided with sufficient assurance that all plans or projects will be taken into account when the final SIP is submitted. The ExA therefore concludes that no AEol from in-combination noise impacts would occur.
- 26.7.33. The ExA is also aware that the SoS has been satisfied with the approach on recently consented OWFs, including the East Anglia ONE North, East Anglia TWO Offshore Wind Farms and Hornsea 4.

Moray Firth SAC – bottlenose dolphin

- 26.7.34. Following publication of the RIES [PD-020], the Applicant provided updated population modelling for bottlenose dolphin, using the Interim Population Consequences of Disturbance methodology, for both the Proposed Developments alone (at Section 6.1.2.3) and cumulatively with other OWF projects (at Section 6.2.1.5) [REP7-056].
- 26.7.35. NE [REP8-104] noted the Applicant's population modelling for bottlenose dolphin and provided detailed comments on the update. NE confirmed that the population parameters are appropriate given the MU being assessed (Greater North Sea) and the reference population size [REP7-056, Table 6-8] is based on the latest information. NE confirmed positively that the population modelling is sufficient for it to agree with the Applicant's conclusion of no significant impact on bottlenose dolphin from the project alone or cumulatively with other OWFs (in EIA terms) [REP8-104].
- 26.7.36. The ExA [PD-017] [PD-020] sought the view of NatureScot, as the ANCB for this European site; however, no response was received during the Examination. The ExA is however aware that the Applicant reports positive pre-application engagement with NS and no issues raised in a meeting in November 2022 [REP7-062]. No specific concerns were raised by IPs concerning this SAC beyond the points raised by NE. The ExA does however note that the joint position statement and the final SoCG between the Applicant and NE [REP7-066] [REP8-042] records agreement of no AEol from the Proposed Development alone or in-combination for this SAC and its qualifying feature.

ExA's Reasoning

- 26.7.37. In the absence of views from NS but in the comfort of advice from NE (albeit largely in an EIA context) and considering the information provided to inform an assessment of AEol to the bottlenose dolphin qualifying feature of the Moray Firth SAC, the ExA concurs with the Applicant's conclusion of no AEol either alone or in-combination with plans or projects.

Humber Estuary SAC – grey seal

- 26.7.38. During the Examination, queries were raised by NE and the MMO regarding the baseline and reference population, assessment methodology and pathways of effects to this SAC and its grey seal qualifying feature. These were noted in the RIES [PD-020].
- 26.7.39. Of the outstanding matters identified in the RIES [PD-020, Table 3-3] concerning the baseline and approach to the reference population, the Applicant [REP7-062] confirmed that the grey seal (and harbour seal) density estimates, and reference

population and SAC population estimates were updated in line with NE comments [REP3-115]. NE provided detailed comments [REP6-029] and subsequently confirmed [REP7-111] it was satisfied with the revised assessment for this SAC.

- 26.7.40. With regards to potential disturbance effects of underwater noise during construction piling alone and queries raised by NE concerning the WCS [PD-020, Table 3-3], this was a matter on which NE [REP6-029] requested further information in its Deadline 6 response. The Applicant subsequently confirmed [REP7-056] that one pile per day would represent the worst-case. NE [REP8-104] confirmed that sufficient justification had been provided by the Applicant to demonstrate that single piling is likely to be the WCS for the purposes of population modelling and that NE had no outstanding concerns related to this comment.
- 26.7.41. With regards to the projects included in the Applicant's in-combination assessment, NE [REP6-029] confirmed that the projects screened [REP3-115, Table 4-18] [REP7-056, Table 6-18] appeared comprehensive and based on the best available information at the time. Whilst projects in the pre-application stage may continue to refine and publish their project data, it is reasonable to implement a cut-off point for new data and NE thus consider what the Applicant has presented is acceptable.
- 26.7.42. Concerning the Applicant's use of a threshold of an additional 1% annual decline (when compared to the unimpacted population) to represent a significant effect to the population assessed, NE [REP6-029] agreed this threshold was appropriate in most scenarios and that the results of the population modelling for grey seal are not significant in line with the 1% annual decline threshold (i.e., predicted to decline up to 0.03% by End 2031).
- 26.7.43. The RIES [PD-020] identified several matters that had been raised by NE in the Examination, but it was still unclear if they were resolved by D5. This included potential impacts to functionally linked habitat of seal SACs, which NE considered should be considered for LSE. The Applicant considered this point related to the harbour seal of The Wash and North Norfolk Coast SAC and impacts to the haul-out site but intended to clarify with NE. NE [REP7-111] subsequently confirmed that whilst it considered this effect should be considered for LSE, it was content that there would be no AEoI from this pathway. NE [RR-063] [REP1-138] [REP2-064] [REP3-146] also requested the Applicant provide an updated assessment of barrier effects. This was provided at D3 [REP3-115]. NE [REP7-111] subsequently confirmed that the Applicant had provided an updated assessment of barrier effects that provides part of the requested information and that it is content that there would be no AEoI from this pathway. These two matters also applied to the harbour seal qualifying feature of The Wash and North Norfolk Coast SAC.
- 26.7.44. By the end of the Examination, the final SoCG between the Applicant and NE [REP8-042] confirmed NE's agreement with the Applicant's conclusion of no AEoI alone or in-combination, including from effects of noise disturbance in-combination with other projects, which had previously been its remaining concern.

ExA's Reasoning

- 26.7.45. The ExA is content that an AEoI, on the basis that the MMO are comfortable with coordinating and enforcing the provisions of the MMMP secured through the DCO, can be ruled out both for project alone and in-combination scenarios.
- 26.7.46. The ExA has no substantive reasons or reasoning to disagree with the joint positions of the Applicant and NE. The ExA agrees with the joint conclusions reached that an AEoI could be ruled out from the Proposed Development alone or in-combination with plans and projects for the grey seal qualifying feature of the above site.

Berwickshire and North Northumberland Coast SAC – Grey Seal

- 26.7.47. The Applicant did not include this SAC in its RIAA [APP-059] on the basis that it had been screened out from LSE due to the Proposed Developments being outwith the foraging range for this species/SAC. However, as noted above and in the RIES [PD-020], NE noted that since the completion of the Applicant's screening, further information had been published that has reported that the maximum foraging range of grey seals is 448km and thus the Berwickshire and North Northumberland SAC is now considered to be within the foraging range.
- 26.7.48. NE [RR-063] confirmed during the Examination that it considered that the outcome for the Humber Estuary SAC represents that most precautionary assessment for grey seal sites, and any potential impact to the Berwickshire and North Northumberland SAC would be lower. NE [REP7-111] stated that it considered there would be no AEol to the grey seal qualifying feature of this SAC.

ExA's Reasoning

- 26.7.49. Noting the conclusions reached for the grey seal of the Humber Estuary SAC above and the advice of NE that any potential impact to this SAC would be lower, the ExA is content that an AEol, both on the basis that the MMO are comfortable with coordinating and enforcing the provisions of the MMMP secured through the dDCO, can be ruled out both for project alone and in-combination scenarios.
- 26.7.50. The ExA has no substantive reasons or reasoning to disagree with the joint positions of the Applicant and NE. The ExA agrees with the joint conclusions reached that an AEol could be ruled out for the grey seal qualifying feature of this site.

The Wash and North Norfolk Coast SAC – Harbour Seal

- 26.7.51. During the Examination, queries were raised by NE and the MMO regarding the baseline and reference population, assessment methodology and pathways of effects to this SAC and its harbour seal qualifying feature, including underwater noise disturbance (in-combination) and disturbance to seals using the Blakeney Point haul-out site (from the Proposed Development alone). These were noted in the RIES [PD-020].
- 26.7.52. As noted for the Humber Estuary SAC above, the Applicant [REP7-062] provided updated harbour seal density estimates, at D3 [REP3-115]. NE provided detailed comments on this in its D6 submission [REP6-029] and subsequently confirmed at D7 [REP7-111] it was satisfied with the revised assessment for this SAC.
- 26.7.53. NE [REP6-029] noted the Applicant's use of an additional 1% threshold (when compared to the unimpacted population) to represent a significant effect to the population assessed, and noted that harbour seal are predicted to have effectively the same un-impacted and impacted population mean at each forecast interval presented. NE confirmed these results are all not significant based on the 1% threshold. NE did also state that it is its view that the context for the assessment of the harbour seal feature of the Wash and North Norfolk Coast SAC differs because this designated feature has an overall unfavourable conservation status. As detailed by NE [RR-063], the Applicant must demonstrate that the project will not hinder (neither stop nor slow) the recovery of the species in the site and that this has been taken into account by NE in its review of the outcomes of the population modelling for harbour seal specifically. NE [REP6-029] recognised that the population modelling of harbour seal, at both the MU and SAC level, from both project alone and cumulative effects [REP3-115, Tables 4-12, 4-38, 5-11 and 5-29], shows effectively no difference in the size of the unimpacted population mean and the impacted population mean.

Therefore, the results as presented indicate that offshore wind impacts will not cause any additional decline to the harbour seal populations assessed.

- 26.7.54. Chapter 8 of this Recommendation Report describes matters of assessment methodology relevant to the HRA, including the request by the MMO [RR-053] for the Applicant to use species-specific dose-response curves to assess disturbance from piling, and the assessment of noise disturbance to harbour seals present at the Blakeney Point haul-out site from the Proposed Development alone.
- 26.7.55. The MMO welcomed the use of dose response curve approach, noting an appropriate use of literature and assessment. Other than a slight discrepancy, the MMO were content with the assessment [REP5-080]. NE affirmed that the population modelling provides assurance that the level of disturbance predicted would not cause a discernible population-level effect [REP8-104].
- 26.7.56. NE's response [REP8-104] provided an update on its position on project-alone impacts due to the disturbance pathway. NE [REP8-104] confirmed it was satisfied that the Applicant's population modelling is sufficient for it to agree with the Applicant's conclusion of no AEoI to the harbour seal qualifying feature of The Wash and North Norfolk Coast SAC. NE also concluded that there is unlikely to be an AEoI to this feature in-combination with other plans or projects. NE [REP8-104] did also state that despite its conclusion of no AEoI, it strongly supports the Applicant's consideration of impacts to seals as a focus for post-consent monitoring, particularly harbour seals associated with the SAC.
- 26.7.57. In respect of monitoring, the Applicant provided an Offshore IPMP [APP-289] with the DCO application. As noted in the RIES, NE [RR-063] [REP1-136] considered the marine mammal section of the Offshore IPMP lacked detail and was not fit for purpose. More detail was requested during the Examination and updated versions were submitted by the Applicant [REP4-014] [REP7-029]. NE [REP4-015] [REP5-090] noted the further information provided in relation to marine mammals (i.e., presenting updated conclusions from the RIAA and ES; assumptions and knowledge gaps) but remained of the view that further detail was required.
- 26.7.58. In response to the RIES, the Applicant [REP7-062] stated it considered the information provided within the Offshore IPMP for marine mammals is sufficient at this stage of the Proposed Development. The Applicant confirmed the Offshore IPMP provides information on the aims of the monitoring proposals, and the key knowledge gaps the monitoring will aim to achieve, including investigating the effectiveness of mitigation (where relevant). The Applicant considered that flexibility in the final monitoring design and timeframes is appropriate to ensure the final project design and programme can be properly considered, and to ensure that other monitoring plans and future research is taken into account. The updated Offshore IPMP [REP7-029, Table 2] responded to the comments of NE [REP5-090]. An amendment was made to the marine mammal section to clarify of the Offshore IPMP to clarify the headline reasons for the monitoring with reference to the ES and HRA.
- 26.7.59. NE [REP8-101] provided comments on the updated Offshore IPMP and identified that on the whole its views remained unchanged as it continues to have concerns with monitoring not being fully linked to outstanding risks and issues. In respect of marine mammals specifically, NE advised that any construction monitoring for seals during construction should be testing that mitigation measures are effective at reducing impacts on seals to acceptable levels, with a particular focus on harbour seals within or from the SAC.

- 26.7.60. By the end of the Examination, the final SoCG between the Applicant and NE [REP8-042] confirmed NE's agreement with the Applicant's conclusion of no AEol alone or in-combination, including from effects of noise disturbance in-combination with other projects, which had previously been its remaining concern.

ExA's Reasoning

- 26.7.61. NE, as the ANCB, has agreed with the Applicant that there would not be an AEol. The ExA has no substantive reasons or reasoning to disagree with the joint positions of the Applicant and the ANCB. The ExA agrees with the joint conclusions reached that an AEol could be ruled out for the above site.
- 26.7.62. The ExA is content, on the basis that the MMO is comfortable with coordinating and enforcing the provisions of the MMMP secured through the dDCO, that there would be no AEol of the harbour seal features of this SAC, from the Proposed Development alone or in-combination with other plans or projects.

ExA's Overall Conclusion – Marine Mammal SACs

- 26.7.63. On the basis of the above information and that provided to the Examination, the ExA is satisfied that the Proposed Development alone would not affect the achievement of any European site conservation objectives for marine mammal qualifying features. Specifically, it does not consider that there would be significant disturbance of any marine mammal qualifying feature, or barrier effects, collision risk, water quality changes, or availability of prey would significantly negatively affect marine mammal species. The ExA does not consider that the population or distribution of qualifying species would be affected.
- 26.7.64. Whilst noting that NE has concerns about the management of the increasing number of SIPs used to control cumulative underwater noise, the ExA is content that the MMO, which has the responsibility for coordinating these, believes that it could effectively manage underwater noise impacts through the MMMP and SIP that would be secured through the rDCO.
- 26.7.65. As a result, the ExA concludes there to be no AEol of any European site from impacts on marine mammal qualifying features from the Proposed Development alone or in-combination. The ExA is satisfied that all mitigation relied on to reach this conclusion is adequately secured in the rDCO.

26.8. FINDINGS IN RELATION TO AEol – OFFSHORE ORNITHOLOGY

- 26.8.1. This Section should be read in conjunction with Chapter 7 Offshore Ornithology of this Recommendation Report, which details matters in the Examination relating to offshore ornithology, including some areas of overlap with HRA matters.
- 26.8.2. The RIAA [APP-059, Section 9] comprises the Applicant's assessment of AEol to European sites designated for offshore ornithology qualifying features. The assessment is also summarised in the HRA Integrity Matrices [REP4-011]. During the Examination, additional assessments were provided and updated regularly [REP1-057] [REP2-036] [REP5-043] [REP7-051] and a final updated version was submitted before the close of the Examination [REP8-038]. The Applicant also submitted a Review of 2022 Highly Pathogenic Avian Influenza (HPAI) outbreak on relevant UK seabird colonies (HPAI report) [REP4-042] and a Gannet and Auk Cumulative Displacement Updates Technical Note [REP5-063].

Mitigation

- 26.8.3. The Applicant's RIAA [APP-059, Table 9-2] identified Embedded Mitigation relevant to the offshore ornithology assessment that has been incorporated into the design of Proposed Development. This is stated to include the site selection, an air gap of 30 metres (m) above Highest Astronomical Tide, and the implementation of best practice protocol for minimising disturbance to RTD. The latter was subject to further discussions during the Examination, as described further below. The Applicant's Schedule of Mitigation and Mitigation Routemap (latest version [REP8-021]) also identified how and where such mitigation measures are secured within the dDCO [REP8-005].

Highly Pathogenic Avian Influenza

- 26.8.4. As noted in the RIES [PD-020], NE [RR-063] confirmed that it had formulated some initial guidance regarding the implications of HPAI for OWF impact assessments. NE provided this as Appendix B2 to its RR and advised the Applicant to consider potential implications of HPAI for the impact assessments and submit an update into the Examination. The Royal Society for the Protection of Birds (RSPB) [RR-083] [REP3-162] also commented on the robustness of bird populations in light of HPAI.
- 26.8.5. Following submission of the Applicant's HPAI review [REP4-042], NE [REP5-091] provided views on the implications of HPAI for key seabird features of SPA/Ramsar considered in the Applicant's HRA. NE [REP8-102] advised that it is challenging to provide advice on Population Viability Analysis (PVA) outputs projecting population trends 35 years into the future in the absence of an understanding of the long-term impacts of this event (or how long HPAI will continue to impact seabirds), which does inevitably reduce the level of confidence in its integrity judgements.
- 26.8.6. Discussion of HPAI is also included at Chapter 7 Offshore Ornithology of this Recommendation Report and summarised for specific species of European sites in the sub-sections below.

European Sites for Which No Aeol was Concluded

- 26.8.7. The Applicant [APP-059] [REP4-009] concluded that the Proposed Development would result in no Aeol of the European sites listed in Table 9 below, either from the Proposed Development alone or in-combination with plans or projects.
- 26.8.8. Neither NE, nor other IPs, raised any concerns in relation to the Applicant's conclusions for these sites and the qualifying features carried forward in the Applicant's assessment of Aeol. Additionally, NE [REP7-111] confirmed agreement with the Applicant's conclusion of no Aeol from the Proposed Development alone or in-combination for all other offshore SPA (and Ramsar with migratory waterbird features at potential risk of collision on passage) considered in the Applicant's assessment [APP-059] not listed in Table 1 (Joint Applicant and Natural England position in relation to conclusions of Aeol for offshore SPAs (including Ramsar Sites with migratory waterbird features at potential risk of collision on passage) of [REP7-111]. A list of all the sites and features identified by the Applicant [REP7-111, Table 1] is set out below.
- 26.8.9. As noted previously, the ExA sought the views of NatureScot, as ANCB for the European sites in Scotland [PD-017] [PD-020]; however, no comments were received during the Examination.

Table 9: European sites in England and Scotland for which the Applicant concluded no Aeol and for which the conclusion was not disputed

European site (England)	European site (Scotland)
Breydon Water SPA	Auskerry SPA
Breydon Water Ramsar	East Caithness Cliffs SPA
Broadland SPA	East Mainland Coast, Shetland SPA
Broadland Ramsar	Fair Isle SPA
Coquet Island SPA	Forth Islands SPA
Farne Islands SPA	Foula SPA
Gibraltar Point SPA	Fowlsheugh SPA
Gibraltar Point Ramsar	Hermaness, Saxa Vord and Valla Field SPA
Humber Estuary SPA	Hoy SPA
Humber Estuary Ramsar	Imperial Dock Lock, Leith SPA
Minsmere-Walberswick SPA	Marwick Head SPA
Minsmere-Walberswick Ramsar	North Caithness Cliffs SPA
Nene Washes SPA	Noss SPA
Nene Washes Ramsar	Papa Stour SPA
NNC Ramsar	Ronas Hill – North Roe and Tingon SPA
Ouse Washes SPA	Troup, Pennan and Lion's Heads SPA
Ouse Washes Ramsar	West Westray SPA
The Wash SPA	Ythan Estuary, Sands of Forvie and Meikle Loch SPA
The Wash Ramsar	Ythan Estuary, Sands of Forvie and Meikle Loch Ramsar

ExA's Reasoning

- 26.8.10. On the basis that NE and no other IPs raised concerns, the ExA can accept the Applicant's conclusion that AEol on all these sites and their qualifying features can be excluded.

European Sites For Which AEol Was Concluded and/ or Where Conclusions Were Disputed During The Examination

- 26.8.11. The RIES [PD-020, Paragraphs 3.3.19 to 3.3.42 and Table 3-4] summarised the concerns raised by IPs during the Examination up to D5 for offshore ornithology HRA matters. This included matters raised by NE [RR-063] [REP3-103] [REP3-143] [REP3-147] [REP4-049] [REP5-091] [REP5-094] and the RSPB [RR-083] [REP1-161] [REP3-162]. The following offshore ornithology European sites and qualifying features were the subject of concerns raised and were the focus of the Examination.

- 1) Alde-Ore Estuary SPA:
 - Lesser black-backed gull.

2) FFC SPA:

- Kittiwake.
- Gannet.
- Guillemot.
- Razorbill.
- Seabird assemblage (including puffin).

3) GW SPA:

- Sandwich tern.
- RTD.

4) NNC SPA:

- Sandwich tern.

5) OTE SPA:

- RTD.

26.8.12. The following sub-sections of this Chapter therefore focus on these sites and qualifying features and the consideration of AEol.

26.8.13. The Applicant agreed with NE [REP8-102] during the Examination that an AEol of the following European sites and features cannot be excluded and this remained the position at the end of the Examination:

6) FFC SPA:

- Kittiwake (breeding) – collision risk in-combination with other consented OWFs (and Hornsea 4 and Rampion 2).

7) GW SPA:

- Sandwich tern (breeding) – collision risk in-combination with other consented OWFs (and Hornsea 4 and Rampion 2).

8) NNC SPA:

- Sandwich tern (breeding) – collision risk in-combination with other consented OWFs (and Hornsea 4 and Rampion 2).

26.8.14. In its application and throughout the Examination, the Applicant concluded no AEol on all other offshore ornithology European sites and features, either alone or in-combination. However, as noted at above, the Applicant initially provided a ‘without prejudice’ for the gannet, guillemot and razorbill qualifying features of the FFC SPA with its DCO application, in the event that the SoS was not able to reach the same conclusion as the Applicant that there would be no AEol to these features. However, by the end of the Examination, the Applicant’s only remaining ‘without prejudice’ case was for the guillemot (non-breeding) qualifying feature of the FFC SPA. This was in respect of operational phase displacement/ barrier effects in-combination with other consented OWFs (and Hornsea 4 and Rampion 2).

26.8.15. During the Examination, NE [REP5-091, REP5-094] confirmed its agreement with the Applicant that an AEol could be ruled out for the gannet qualifying feature of FFC SPA. NE was not however in agreement with the Applicant’s conclusion of no AEol in-combination to the guillemot and razorbill qualifying features, and this position remained at the end of the Examination [REP8-102]. NE [REP8-102] was also not able to rule out a conclusion of AEol to the seabird assemblage feature of the FFC

SPA. Discussion of the derogations, including the Applicant's without prejudice case is detailed in Section 29.10 of this Chapter.

- 26.8.16. At the end of the Examination, NE [REP8-102] provided its Offshore Ornithology Position (Revision 2) document. This provided an overview of its final positions on the potential for AEol and HRA matters for key seabird species at D8. NE [REP8-102, Section 2] identified some outstanding issues that could influence the values within the impact assessment. In many cases, NE addressed the discrepancies and in all cases provided a position for each site, as described within the species/site subsections below. NE also included its advice on the approach to interpretation of predicted impacts and application of PVA, the HPAI epidemic, and the approach to other foreseeable plans and projects not included in the assessment.
- 26.8.17. With regards to the latter and the Applicant's assessment of in-combination OWF projects, NE [REP8-102] confirmed that the Applicant has considered all appropriate set of plans and projects, as data for the Tier 4 and 5 OWF projects identified (ie Rampion 2, Five Estuaries, North Falls, Outer Dowsing, Dogger Bank South (two projects), Dogger Bank D, and Berwick Bank) will not be available until after the end of Examination. However, NE did note that if such information becomes available prior to determination for SEP and DEP, it may need to seek the incorporation of such data into any consultation request received from the SoS. NE highlighted that the lack of data regarding Tier 4 and Tier 5 projects does inevitably introduce additional uncertainty into the in-combination assessments, and requires a precautionary approach to the appraisal of those impacts that are quantifiable.

Alde-Ore Estuary SPA

Lesser Black-Backed Gull (Breeding) – Collision Risk

- 26.8.18. The Applicant [APP-059] concluded no AEol alone or in-combination to this qualifying feature from collision risk. Following NE's [RR-063] comments concerning the Applicant's collision risk modelling (CRM), the Applicant provided an updates [REP1-057, REP2-036], including information in respect of lesser black-backed gull of this SPA.
- 26.8.19. Following review of the Applicant's updates, NE [REP3-103, REP3-143] confirmed agreement with the Applicant's conclusion of no AEol to this SPA from the Proposed Developments alone and that there would be no measurable contribution to in-combination. NE reiterated this view [REP5-091] and this was also confirmed in NE's final position statement [REP8-102].
- 26.8.20. In respect of HPAI, NE [REP5-091] [REP8-102] confirmed that following receipt of the Applicant's HPAI report [REP4-042], no mortality from HPAI has been recorded in data provided by NE within the Alde-Ore Estuary SPA population for 2022. Therefore, there is no current indication of an increased sensitivity of this colony to impacts, though any conclusion can only be drawn with low confidence.

ExA's Reasoning

- 26.8.21. The ExA has no substantive evidence or reasoning to disagree with the joint positions of the Applicant and the ANCB. The ExA agrees with the joint conclusions reached that an AEol could be ruled out for the lesser black-backed gull qualifying feature of the Alde-Ore Estuary SPA, alone or in-combination.

FFC SPA

26.8.22. During the Examination, matters relating to the kittiwake, gannet, guillemot, razorbill and seabird assemblage (including puffin) qualifying features were the subject of the Examination, as described below.

Kittiwake – collision risk

- 26.8.23. The Applicant's RIAA [APP-059] concluded that an AEol could not be excluded for the kittiwake qualifying feature of the FFC SPA due to potential collision risk in-combination with other OWFs.
- 26.8.24. As noted in the RIES [PD-020], the Applicant provided updates [REP1-057, REP2-036], including information in respect of collision risk modelling and PVA for the kittiwake qualifying feature. Although the updates [REP1-057, REP2-036] resulted in a lower predicted collision mortality, it was considered that the level of mortality from the Proposed Developments in-combination with the other OWFs may still be sufficient to affect the potential for the restore conservation objective for the SPA kittiwake population to be achieved. Thus, the Applicant remained of the view that an AEol in-combination to this qualifying feature could occur.
- 26.8.25. Further updates were made following issue of the RIES [REP5-043] [REP7-051] [REP8-038]. The D7 version [REP7-051, Section 10.2.2] included updates to the kittiwake in-combination tables to seek to address NE's comments in [REP5-091]. These included amended CRM values to reflect updated avoidance rates for the in-combination assessment used in the CRM Updates (EIA Context) Technical Note (Rev B) [REP3-089].
- 26.8.26. NE's final position statement [REP8-102] retained reference to two outstanding discrepancies relating to the assessment of AEol of kittiwake [REP8-102, Section 10], although the ExA notes that the kittiwake position statement text remained unchanged since the D5 version [REP5-091]. These related to the in-combination assessment. NE noted that the CRM in-combination totals [REP2-036] had not been updated in line with the latest CRM Updates Note [REP3-089]. However, the ExA notes that the Applicant did provide this update at D7 [REP7-051].
- 26.8.27. Nevertheless, NE stated it had considered the discrepancies in the in-combination collision totals and concluded it would make no difference to the conclusion and, at best, a minor difference to the quantification of impact. NE expanded that the slight change made to the cumulative figures in the [REP3-089] only affects a limited number of consented projects, where the avoidance rate cannot be corrected. Thus, the difference in total birds for kittiwake (not apportioned to FFC SPA) would be 3009.5 birds in the corrected CRM Updates Note compared with 3007.6 in the Apportioning and HRA Updates Technical Note (with 292.7 apportioned to FFC SPA). NE concluded that it did not consider this would make a difference to the conclusions drawn from the in-combination total.
- 26.8.28. NE [REP8-102] also noted that the Applicant had excluded OWF projects that are currently are currently subject to compensation (i.e., Hornsea 3, Norfolk Boreas, Norfolk Vanguard, East Anglia 1N, and East Anglia 2). However, on the basis that SoS may require the inclusion of the impacts of these projects in regards assessment of whether the qualifying feature is subject to an adverse effect, NE provided amended in-combination totals to include the collisions attributed to these projects based on figures presented by the Hornsea 4 Applicant (submission linked in [REP8-102]). These are presented in [REP8-102, Table 4]. NE state that this results in an additional 101.1 birds, and the in-combination total increases to 394; noting that the

101.1 birds have not been corrected for the revised Avoidance Rate for kittiwake, and so is a precautionary total.

- 26.8.29. In respect of HPAI implications, NE [REP5-091] [REP8-102] noted that a small number of mortalities were recorded at FFC SPA due to HPAI, but this may well under-estimate the likely impacts. Much higher mortalities were recorded at other colonies, such as the Farne Isles. NE state that the current long-term implications for the FFC SPA are unknown.
- 26.8.30. NE [REP8-102] confirmed that for the Proposed Developments alone (SEP, DEP, or SEP and DEP) in all cases the collision impacts result in increases to baseline mortality of substantially less than 1% and no further assessment is required. NE advised there would be no AEol of the kittiwake qualifying feature of the FFC SPA for SEP alone, DEP alone and SEP and DEP together.
- 26.8.31. Concerning in-combination effects, NE [REP8-102] noted that the predicted collision impact in-combination with other OWFs is presented by the Applicant as 292 birds (causing an increase to baseline mortality of 1.94%). However, when recalculated as above to include the impact of OWFs subject to compensation this increases to 394 (i.e., 2.6% of baseline mortality). In either event, both the counterfactual of population growth rate (CGR) and counterfactual of population size (CPS) metrics indicate that the population could decline from current levels.
- 26.8.32. NE confirmed that its advice regarding in-combination collision impacts to the kittiwake feature of the FFC SPA remains, that as this feature has a restore conservation objective requiring the population to be returned to previous levels, and because there are indications that the predicted level of mortality would mean the population could decline from current levels should it currently be stable, it is not possible to rule out AEol of the kittiwake feature of the FFC SPA for collision impacts from in-combination with other plans and projects. This conclusion is the same as reached by the Applicant. The Applicant submitted a derogations case and a suite of documents setting out compensatory measure considerations at the onset of the Examination, and these are considered fully in Section 29.10 of this Chapter).

ExA's Reasoning

- 26.8.33. Taking into account the evidence supplied by the Applicant and NE, based on the findings of the Examination detailed above, the ExA is satisfied that project-alone AEol to the kittiwake qualifying feature of the FFC SPA can be excluded. This conclusion is supported by NE.
- 26.8.34. When the Proposed Development was considered in-combination with other plans and projects, the Applicant concluded that an AEol could not be ruled out for the kittiwake feature of the FFC SPA. Notwithstanding any discrepancies and contention regarding the scale of the impact, this conclusion was not disputed by IPs and remained constant throughout the Examination. The ExA has no reason to depart from the joint positions of the Applicant and the ANCB and accepts the conclusions regarding AEol. The ExA agrees with the Applicant and NE that it is not possible to exclude an AEol from in-combination kittiwake collision mortality.

Gannet – Displacement and Collision Risk

- 26.8.35. The Applicant's RIAA [APP-059] concluded that there would be no AEol as a result of predicted mortality due to combined effects of displacement and collision risk to the gannet qualifying feature of the SPA, either alone or in-combination with other OWFs. However, at the point of making the application, the Applicant also provided a without prejudice compensatory measures case [APP-074] [APP-075], which could be

applied to provide compensation in the event that the SoS is unable to reach a conclusion of no AEol with respect to this feature.

- 26.8.36. This position evolved during the Examination, and as noted in the RIES [PD-020], NE [RR-063] [REP3-103] confirmed that providing there are no further significant changes to the collision and displacement figures provided for the Proposed Development, it is likely to reach a conclusion of no AEol for gannet of this SPA when considering the in-combination impact including SEP and DEP. The RSPB [REP1-161] expressed continued concerns about the collision risk calculations for gannet and the implications for FFC SPA, which remained its view at the end of the Examination [REP8-116].
- 26.8.37. By D5 of the Examination, NE [REP5-091] provided its position in respect of gannet at Section 10 of that document. It noted that some corrections/updates will be required for the Applicant's HRA update (e.g., assessment of Hornsea 4 for a range of mortality rates, and inclusion of changes in the CRM update [REP3-089]). NE expanded on its conclusions on AEol to gannet from the Proposed Developments alone and in-combination and concluded that there would be no AEol from the Proposed Developments alone (SEP, DEP) and together (SEP and DEP). NE [REP5-091, REP5-094] also advised that there would be no AEol from the Proposed Development in-combination with currently consented projects.
- 26.8.38. Following agreement between the Applicant and NE [REP5-049, REP5-091] that AEol could be excluded for the gannet qualifying feature of FFC SPA, the Applicant submitted a revised version of its Compensation Document [REP5-018] (formally [APP-074]) and Outline Compensation Implementation and Monitoring Plan (CIMP) [REP5-019], which removed all references to gannet.
- 26.8.39. By the end of the Examination, NE's final position statement [REP8-102] noted two outstanding discrepancies relating to the assessment of AEol to gannet [REP8-102, Table 1 and Section 10], although it is noted that the gannet text remained the same as that included in [REP5-091]. These were in respect of the in-combination assessment.
- 26.8.40. NE [REP8-102] considered that the Hornsea 4 gannet displacement mortality rate should be presented as a range of 1-10% (the Applicant presents all OWFs at 1% mortality rate). NE provided a calculation to adjust the in-combination total in Table 3 of [REP8-102], explaining that its approach to displacement is to provide values as a range of displacement and mortality rates bounded by the upper and lower ranges for each species. NE confirmed that for gannet, in the case of the Proposed Development it is agreed that this range is defined as 60-80% displacement and 1% mortality (as presented by the Applicant), noting that in the case of Hornsea 4 it was considered appropriate to employ a larger range of mortality from 1-10%, as Hornsea Project Four is situated at close proximity to FFC SPA. In other recent cases (i.e., Boreas, Vanguard EA1N and EA2) NE has accepted a mortality rate of 1% as these projects, while still in foraging range, are at some distance from the colony. NE considered that Hornsea Project Four should be assessed for a range of mortality from 1-10%, recommending that a correction needed to be applied to the figures presented by the Applicant in the Apportioning and HRA Updates Technical Note.
- 26.8.41. As for kittiwake above, NE [REP8-102] final position statement noted that the CRM in-combination totals in the Applicant's Apportioning and HRA Updates Note [REP2-036] had not been updated in line with the latest CRM Updates Note [REP3-089]. However, the ExA notes that the Applicant did provide this in its D7 update [REP7-056] and NE [REP8-102] confirmed that it had considered the discrepancies in the in-

combination collision totals and concluded it would make no difference to the conclusion and, at best, a minor difference to the quantification of impact.

- 26.8.42. In respect of HPAI implications, NE [REP8-102] stated as identified in the Applicant's HPAI Report [REP4-042], 259 dead gannets (adults and young) were recorded at the FFC SPA in 2022, which is considered likely to be an underestimate, and gannet productivity at sample plots at FFC SPA was reduced significantly in 2022. NE stated that this indicates that the colony may be increasingly sensitive to other impacts, although as stated in the HPAI Report [REP4-042] a reduction in the wider gannet population would be expected to result in a proportionate reduction in any collision/displacement effects at SEP and DEP.
- 26.8.43. The Applicant [REP8-038, Section 8.2] presented the updated assessment for gannet and identified that in all scenarios (SEP, DEP, SEP and DEP) for collision, displacement, and combined collision/displacement, the predicted baseline mortality would be less than 1%. NE [REP8-102] confirmed its agreement that for the Proposed Developments alone (SEP, DEP, or SEP and DEP) that in all cases the combined displacement and collision impacts would result in increases to baseline mortality of gannet substantially less than 1% and no further assessment is required. NE therefore advised that there would be no AEoI of the gannet qualifying feature of the FFC SPA alone.
- 26.8.44. In respect of in-combination effects, the Applicant [REP8-038, Section 8.2.4] identified potential increases in the existing mortality rate of greater than 1% from in-combination displacement and collision effects, which could be detectable against natural variation and therefore undertook PVA to assess the population-level impacts from these effects. The Applicant confirmed that levels of mortality resulting from SEP and DEP in-combination with other OWFs are lower, overall, than those that were predicted in the RIAA [APP-059]. Thus, the upper range for the predicted additional annual mortality is 140.5 adult birds which compares with 419 adult birds based on the predictions in the RIAA [APP-059]. The Applicant confirmed the resultant CGR and CPS indicated substantially smaller population level impacts than those predicted in the RIAA [APP-059]. The Applicant concludes that the predicted gannet mortality due to the combined effects of operational phase displacement and collision at SEP, DEP and SEP and DEP combined, in-combination with other projects would not result in an AEoI of the FFC SPA.
- 26.8.45. Concerning in-combination effects, NE in its position statement [REP8-102] noted that the predicted combined displacement and collision impacts based on its advice vary due to the range in displacement and mortality rates assessed. All scenarios result in the range of predicted impacts for FFC SPA gannet exceeding a 1% increase in the baseline mortality (based on the latest SPA count). Thus, NE noted further consideration of the potential population level impacts for FFC SPA is required.
- 26.8.46. NE [REP8-102, Table 3] went on to consider the implications, reiterating its closing statement for the Hornsea 4 Examination and presented the predicted combined collision and displacement impacts on the gannet FFC SPA population for the range of revised mortality impacts presented in the HRA update note [REP2-036]) predicted for projects alone, together and in-combination combined collision and displacement impacts. On the basis of the predictions, NE advised that there would be no AEoI of the gannet feature of the FFC SPA for SEP, DEP, and SEP and DEP in-combination with currently consented projects. This position is also identified in [REP8-102, Table 2].

- 26.8.47. The RSPB did not agree that avoidance rates should be applied to the gannet species, particularly the use of a 98.9% avoidance rate for the breeding population due to a lack of evidence [RR-083], [REP1-161, Paragraphs 4.17 to 4.25]. A lower rate of 98% was recommended in order to ensure the CRM was not misrepresentative.
- 26.8.48. In addition, the RSPB did not agree with the PVA methodology used by the Applicant with regards to CPS and CGR, particularly that they were disassociated [REP1-161, Paragraphs 4.6 to 4.8]. The RSPB maintained this position from the start to the end of the Examination, submitting that an AEol could not be ruled out.
- 26.8.49. The Applicant [REP2-017], however, responded to state that the CGR and CPS metrics are not disassociated in the submissions as is evident in the primary tables and associated text in the RIAA [APP-059], thus the interpretation of the population-level impacts according to both the CGR and CPS metrics is readily achieved. The Applicant also confirmed that the approach taken to PVA and to the use of avoidance rates was justified because it was consistent and aligned with NE's recommendations [REP1-034, page 58].

ExA's Reasoning

- 26.8.50. The ExA note the final position of NE and that it aligns with the Applicant's findings early in the Examination. Whilst sympathetic to the RSPB's concerns, the ExA has no reason to depart from the joint positions of the Applicant and the ANCB and accepts the conclusions that there would not be an AEol from the Proposed Development alone or in-combination with other plans or projects.

Guillemot – Displacement

- 26.8.51. The potential impact pathway of concern during the Examination was displacement of the guillemot qualifying feature of FFC SPA. The Applicant's RIAA [APP-059] concluded that an AEol could be excluded for the guillemot qualifying feature of the FFC SPA due to displacement in-combination with other plans or projects. Nevertheless, the Applicant also provided a without prejudice compensation document with its application [APP-074], in the event that the SoS is unable to reach the same conclusion as the Applicant.
- 26.8.52. As noted in the RIES [PD-020], NE [REP3-143] [REP3-146] expressed various concerns during the Examination with the method adopted to calculate impact assessment. NE recommend the Applicant adopt the approach taken on Hornsea 4. The Applicant provided an update [REP5-043], which included the presentation of updated in-combination displacement mortality and PVA values for guillemot to reflect the most recent submissions by Hornsea 4. The Applicant also submitted a Gannet and Auk Cumulative Displacement Updates Technical Note [REP5-063] in response to NE's request [REP4-049], which subsequently superseded the cumulative displacement tables for gannet and auks (guillemot and razorbill) originally provided in ES Appendix 11.2 [APP-196]. Further updates were issued by the Applicant at D7 [REP7-051] and D8 [REP8-038], although no further changes to the guillemot assessment were included.
- 26.8.53. By the end of the Examination, and as detailed in NE's final position statement [REP8-102], NE had raised one point/discrepancy relating to the assessment of AEol of guillemot [REP8-102, Table 1 and Section 10]. This related to the impact estimates for Hornsea 4, which needed to be updated for guillemot and razorbill to reflect NE's approach to calculation of impact (both standard and bespoke). NE requested this at D3, and a revised Apportioning and HRA Updates Technical Note was submitted by the Applicant [REP5-043].

- 26.8.54. NE [REP8-102] confirmed that it advises a range of values as a range of displacement and mortality rates bounded by the upper and lower ranges for each species, and that for the Proposed Development is agreed that this range is defined as 30 - 70% displacement and 1 - 10% mortality, as presented by the Applicant in [REP5-043 [APP-059].
- 26.8.55. NE [REP7-112] explained during the Examination that the 'bespoke approach' was not being advocated for SEP and DEP, with the approach to assessing impacts on FFC SPA guillemot (and razorbill) being entirely standard and fully in line with the ANCB guidance. NE [REP8-102] advised that the bespoke approach and 'standard' approach should be presented within the in-combination figures for SEP and DEP, and the Applicant updated its note accordingly.
- 26.8.56. NE's final position statement noted the Applicant [REP5-044] reduced the number of simulations from 5000 to 1000, which appears to have resulted in counterfactuals that reflect a reduced impact to the population (in terms of population growth rate and final population size). NE considered it more appropriate to refer to the original PVA outputs presented in the RIAA [APP-059], which were run with 5000 simulations (thus being more representative of the true stochasticity within the parameters). Thus, NE refers to the closest impact presented within the RIAA [APP-059, Table 9-112] when informing the resulting position in [REP8-102, Table 5].
- 26.8.57. The Applicant explained [REP5-044] that it had reduced the number of simulations for each species (guillemot and razorbill) due to the large number of PVA scenarios that resulted from the presentation of updated in-combination displacement mortality and PVA values to reflect the most recent submissions by Hornsea 4. The Applicant's view was that because of the low predicted mortality, it was unnecessary to develop and secure compensatory measures as an AEol could be ruled out [APP-059] [REP5-063].
- 26.8.58. Prior to the close of the Examination, the SoS issued a decision on the Hornsea 4 and determined to grant the DCO. The SoS concluded that an AEol in-combination could not be ruled out for guillemot. There is very close alignment between Hornsea 4 and the Applicant for the Proposed Development regarding the in-combination assessment, as each project takes account of the other. The ExA therefore sought to gauge reactions to the Hornsea 4 decision [PD-022].
- 26.8.59. The Applicant [REP8-052] and NE [REP8-108] both expressed limited capability to respond to the Hornsea 4 decision prior to the close of the Examination (4 days including a weekend). Nonetheless, in the time available, the Applicant summarised that the decision at Hornsea 4 verified the approach taken to assessing the Proposed Development and that the Applicant's position regarding offshore ornithology would not be changing as a result of the decision [REP8-052].
- 26.8.60. The Applicant disagreed with using 70% displacement and a 2% mortality rate stating there was no evidence to support this, although did concede that the SoS applied such rates in the Hornsea 4 decision [REP8-052, Table 1, ID2]. Nonetheless, the Applicant concluded that the predicted annual mortality of guillemot from SEP and DEP is extremely small.
- 26.8.61. NE insisted that until the Hornsea 4 decision had been fully reviewed, its position on the in-combination impacts and the in-principle compensation measures remains unchanged. Whilst the full positions of the parties are not yet clear, the ExA is able to report to the SoS on its own conclusions regarding these FFC SPA species.

- 26.8.62. The Applicant, whilst acknowledging that the SoS determined that compensatory measures were required for the guillemot feature of the FFC SPA, stated more time was required to give a properly considered response. Nonetheless, the without prejudice compensatory documents remain applicable [REP8-008] [REP8-041].
- 26.8.63. By the end of the Examination, NE advised [REP5-091] [REP8-102] that in all cases (SEP, DEP and SEP and DEP together) the range of predicted impacts do not exceed an increase in baseline mortality of 1% and therefore it can conclude there would be no AEol on the guillemot feature of the FFC SPA from the Proposed Developments alone (SEP, DEP, and SEP and DEP).
- 26.8.64. In respect of in-combination displacement effects, NE described in its final position statement [REP8-102] and presented in Table 5 of that statement, the predicted displacement induced mortality arising from SEP and DEP in-combination with other consented projects (and Hornsea 4 and Rampion 2), which would be between 112 and 2608 using the NE standard approach and between 176 - 4099 applying the bespoke approach, which NE considers to be most appropriate treatment of the data for the Hornsea Project Four project. This range results in the population growth rate being reduced by between 0.2% and 2.8%), and the final population size decreasing by between 3.9 – 69.2%. NE noted that both the upper CGR and CPS of 2.8% & 69.2% respectively are an underestimate, based on 3079 mortalities, the true upper range is 4099.
- 26.8.65. NE [REP8-102] state that the full range of displacement impacts are however considered as a reference point, and in line with previous cases (i.e., Hornsea Project Four and Norfolk Boreas) the mortality level arising using 70% displacement for all projects, 2% mortality of all projects other than Hornsea Project Four (which was calculated at 5%) has been calculated. NE state that using data from this assessment, the total mortality at those rates would be 1498 birds, and this results in a reduction in growth rate of 1.4% (based on 1539 birds in the Applicant's RIAA [APP-059, Table 9.112] and a reduction in final population size of 54.3%. NE state that this means that the FFC SPA population is projected to reduce if it did not maintain a growth rate of over 1.4% for the 35 years of the Proposed Development.
- 26.8.66. NE [REP8-102] identifies that the figures presented within the current SEP and DEP assessment accord closely with those of Hornsea Project Four and as such the considerations and conclusion provided by NE for Hornsea Project Four apply equally in this case. The position of NE for Hornsea Project Four concluded that considering the colony's current and likely future growth rates, and evidence of declines in productivity at the colony, it cannot be confident that the FFC SPA annual growth rate will be sustained at a level over the next 35 years to prevent it from being susceptible to the displacement impacts of Hornsea Project Four alone and in-combination with other plans and projects. NE reiterated that its advice regarding in-combination displacement impacts to FFC SPA guillemot remains unchanged as that set out in its end of examination response during the Hornsea Project Four ie that because there are indications that the predicted level of mortality would mean the population could decline from current levels should the current population growth rate not be sustained. NE therefore advise that it is not possible to rule out AEol of the guillemot feature of the FFC SPA for displacement impacts in-combination with other plans and projects.

ExA's Reasoning

- 26.8.67. In respect of the FFC SPA, the Applicant's initial case was that an AEol could be ruled out for the guillemot feature. The ExA has reviewed all the material before the Examination, including the Applicant's acknowledgement that the SoS found an AEol could not be ruled out in the Hornsea 4 decision. Bearing in mind the EIA/ HRA data

gathering and presentation for Hornsea 4 was a strong influencing factor within the Applicant's own assessments and conclusions for the Proposed Development's HRA, it would make logical sense to place substantial weight to the SoS decision for that project. The ExA is therefore not content with the Applicant's position that an AEol can be ruled out.

- 26.8.68. Whilst there is agreement between NE and the Applicant [REP8-102] that the Proposed Development would make a minimal contribution to the in-combination impacts upon the guillemot feature, the in-combination impact would be such that the ExA cannot rule out an AEol on the FFC SPA from the Proposed Development in-combination with other OWFs.

Razorbill – Displacement

- 26.8.69. The Applicant concluded no AEol of the razorbill qualifying feature of the FFC SPA, alone or in-combination [APP-059]. However, the Applicant provided a without prejudice compensation document with its application [APP-074], in the event that the SoS is unable to reach the same conclusion as the Applicant.
- 26.8.70. The same matters raised for guillemot in paragraphs above also apply to razorbill. Namely, NE's request to update the impact estimates for Hornsea Project Four to reflect NE's approach to calculation of impact (both standard and bespoke), and the noted reduction in simulations that resulted in NE considering it more appropriate to refer to the original PVA outputs presented in the RIAA [APP-059]. NE presented its position [REP8-102, Table 6].
- 26.8.71. In respect of HPAI, NE [REP8-102] identified that no razorbill mortalities were recorded at FFC SPA due to HPAI in 2022, and that 43 mortalities were recorded in total in England, the majority found at Lindisfarne (the nearest colony being Farne Islands SPA). NE state that the current long-term implications for the razorbill population of the FFC SPA are unknown.
- 26.8.72. The Applicant [REP8-038, Section 11] presented the updated assessment for razorbill. This identified that in all scenarios (SEP, DEP, SEP and DEP) for collision, displacement, and combined collision/displacement, the predicted baseline mortality would be less than 1%. By the end of the Examination, NE [REP8-102] confirmed its agreement that in all cases (SEP, DEP, and SEP and DEP) the range of predicted impacts do not exceed an increase in baseline mortality of 1% and therefore it advised there would be no AEol on the razorbill qualifying feature of the FFC SPA from the Proposed Development alone (i.e., for SEP, DEP, and SEP and DEP).
- 26.8.73. In respect of in-combination effects, the Applicant [REP8-038, Table 11-4] presented seasonal and annual population estimates of breeding adult razorbill of the FFC SPA at all OWFs included in the in-combination assessment and confirmed that the values used are unchanged from those provided in the RIAA [APP-059] except for the most recent values for Hornsea 4 and the addition of values from the Rampion 2 PEIR. The Applicant also presented three different values for the Hornsea 4 contribution to the in-combination effect, as requested by NE. Presenting the three different approaches to calculating the seasonal apportionment of effects to FFC SPA in Hornsea 4 results in a range of potential increases in the existing mortality rate, which is summarised as being between:
- 0.49% and 11.48% (HP4 Applicant's approach);
 - 0.50% and 11.76% (HP4 Natural England 'standard approach'); and
 - 0.69% and 16.21% (HP4 Natural England 'bespoke approach').

- 26.8.74. The Applicant undertook PVA for the scenarios to assess the population-level impacts from in-combination displacement. The findings of the PVA are summarised in [REP8-038, Paragraphs 75-79]. The Applicant concludes that on the basis of the findings, the conclusions of the RIAA [APP-059] in relation to the FFC SPA razorbill population remain unchanged and the predicted razorbill mortality due to the effects of operational phase displacement at SEP, DEP and SEP and DEP, in-combination with other OWFs would not result in an AEol of the FFC SPA.
- 26.8.75. In respect of in-combination effects, NE described in its final position statement [REP8-102, Table 6] and presented that the predicted displacement induced mortality arising from SEP and DEP in-combination with other consented projects (and Hornsea Project Four and Rampion 2) is between 21 and 500 using the NE 'standard' approach and 30 – 689 using the NE 'bespoke' approach, which it considers to be more suitable for the Hornsea Project Four project. This range results in the population growth rate being reduced by between 0.1% and 1.5%, and the final population size decreasing by between 3.4 – 45.4%. NE noted that both the upper CGR and CPS of 1.5% & 45.4% respectively are an underestimate, based on 502 mortalities, the true upper range is 689.
- 26.8.76. As for guillemot above, NE [REP8-102] state that the full range of displacement impacts are however considered as a reference point, and in line with previous cases (i.e., Hornsea 4 and Norfolk Boreas) the mortality level arising using 70% displacement for all projects, 2% mortality of all projects other than Hornsea Project Four (which was calculated at 5%) has been calculated. NE state that using data from this assessment, the total mortality at those rates would be 1498 birds, and this results in a reduction in growth rate of 1.4% (based on 1539 birds included in the RIAA [APP-059, Table 9.112] and a reduction in final population size of 54.3%. NE state that this means that the FFC SPA population is projected to reduce if it did not maintain a growth rate of over 1.4% for the 35 years of the Proposed Development.
- 26.8.77. NE state that the figures presented within the SEP and DEP assessment accord closely with those of Hornsea Project Four and as such the considerations and conclusion provided by NE for Hornsea Project Four apply equally in this case. The position of NE for Hornsea Project Four concluded that considering the colony's current and likely future growth rates, and evidence of declines in productivity at the colony, it cannot be confident that the FFC SPA annual growth rate will be sustained at a level over the next 35 years to prevent it from being susceptible to the displacement impacts of Hornsea Project Four alone and in-combination with other plans and projects. NE reiterated that its advice regarding in-combination displacement impacts to FFC SPA razorbill remains unchanged as that set out in its end of examination response during the Hornsea 4, because there are indications that the predicted level of mortality would mean the population could decline from current levels should the current population growth rate not be sustained. NE therefore advise that it is not possible to rule out AEol of the razorbill qualifying feature of the FFC SPA for displacement impacts in-combination with other plans and projects.
- 26.8.78. The Applicant [REP8-062] summarised the decision of the Hornsea 4 taken on 12 July 2023 just before the close of the SADEP Examination, stating that the HRA by the SoS concluded that displacement mortalities would not undermine the conservation objectives for the razorbill feature of the FFC SPA and an AEol from Hornsea 4 alone, and in-combination with other projects, could be excluded. The Applicant confirmed that, as outlined in [APP-059] [REP8-038], the contribution of SEP and DEP to in-combination totals was extremely small (an annual upper 95% confidence limit mortality of 3 birds (mean value of 4)). As such, the Applicant considers that it is no longer necessary to present 'without prejudice' compensation

measures relating to razorbill. The Applicant is of the view that, based on the information presented by the Applicant to the Examination and the decision made on Hornsea 4, the SoS can conclude that AEol can be ruled out for razorbill of the FFC SPA alone and in-combination.

ExA's Reasoning

- 26.8.79. The ExA have reviewed all the material before the Examination, including the Applicant's acknowledgement that the SoS found an AEol could be ruled out for the razorbill feature in the Hornsea 4 decision.
- 26.8.80. Bearing in mind the EIA/ HRA data gathering and presentation for Hornsea 4 was a strong influencing factor within the Applicant's own assessments and conclusions for the Proposed Development's HRA, it would make logical sense to place substantial weight to the SoS decision for that project. The ExA is content that the Applicant's case with respect to razorbill is supported by evidence submitted to the Examination and by the SoS decision on Hornsea 4.
- 26.8.81. The ExA can therefore conclude that an AEol can be ruled out for the razorbill feature of the FFC SPA from the Proposed Development alone or in-combination with other plans or projects. Should the SoS disagree, there is enough information within the Examination to reinstate the razorbill species in all relevant and necessary documents to be certified under Article 38 and Schedule 18 of the rDCO [REP8-005].

Seabird assemblage (including puffin)

- 26.8.82. The Applicant's RIAA [APP-059] [REP4-011] concluded no AEol to the breeding seabird assemblage of the FFC SPA from the Proposed Development alone or in-combination with plans or projects. The Applicant [REP3-103] was also of the view that where individual species compensatory measures are agreed to be appropriate, further compensation will not be needed for the assemblage. This position remained by the end of the Examination, [REP8-038].
- 26.8.83. NE [RR-063] advised the Applicant that puffin, as a component of the FFC SPA seabird assemblage, needed to be considered as part of the assessment of impacts on the seabird assemblage. The Applicant [REP1-057] [REP2-036] added puffin to its assessment and birds were apportioned for the breeding and non-breeding seasons in its Apportioning and HRA Updates Technical Note. At D3 NE [REP3-146] welcomed the acknowledgement of potential connectivity between breeding puffin of the FFC SPA and the Proposed Development. NE stated that whilst it did not agree with the method of calculation, it agreed that there would be no measurable contribution to in-combination puffin mortality from the Proposed Development.
- 26.8.84. The Applicant presented its assessment of the seabird assemblage of the FFC SPA in its RIAA [APP-059], as updated at Section 13 of the Apportioning and HRA Updates Technical Note [REP8-038], with the assessment of the gannet, kittiwake, guillemot and razorbill qualifying features also considered individually in that note (as features in their own right). The Applicant [APP-059] [REP8-038] considered the assemblage features against the conservation objectives for the assemblage including diversity, abundance and supporting habitats (extent and distribution, and quality). The Applicant concluded no AEol of the seabird assemblage, alone or in-combination.
- 26.8.85. As noted for those individual species above, the Applicant [REP8-052] [REP8-038] concluded by the end of the Examination there would be an AEol of the kittiwake qualifying feature from in-combination collision impacts, but concluded no AEol of the gannet, razorbill and guillemot qualifying feature, alone or in-combination. The

Applicant acknowledged in its seabird assemblage conclusions that the predicted in-combination mortality for kittiwake may be sufficient to affect the potential for the 'restore' objective for the SPA population to be achieved, leading to the conclusion that the potential for an AEol cannot be excluded. However, it considered the scale of the potential impact to be not sufficient to have the potential to affect the Supplementary Advice on the conservation objectives target concerning the overall abundance of the seabird assemblage feature from being achieved.

- 26.8.86. As noted in the RIES [PD-020], NE [REP3-143] [REP5-091] stated that it was awaiting information from the Applicant to address concerns around individual species impacts (including displacement effects to guillemot and razorbill) before it could comment on the seabird assemblage and provide a position. The RSPB [REP3-162] stated that it did not agree that the seabird assemblage would remain intact given the impact on key features (kittiwake, gannet, guillemot and razorbill) that contribute to the assemblage feature.
- 26.8.87. In its final position statement, NE [REP8-102] confirmed agreement with the Applicant's conclusion [REP2-036] that the effects from the Proposed Development alone (i.e., SEP, DEP, and SEP and DEP together) would have no AEol of the breeding seabird assemblage qualifying feature of the FFC SPA. As noted previously, NE confirmed it agrees there would be no measurable increase in puffin mortality and thus no AEol in respect of this assemblage qualifying feature.
- 26.8.88. In respect to in-combination effects, NE [REP8-102] considered the conclusion it had reached for the Hornsea 4 (which was unable to rule out AEol), combined with NE's previously stated in-combination positions for the Proposed Development relating to AEol to kittiwake, guillemot and razorbill resulting in further potential reductions in population size for these key components of the FFC SPA seabird assemblage, means that it is not able to rule out a conclusion of AEol for the seabird assemblage at FFC SPA. However, NE noted that species-specific compensatory measures for the above-mentioned species, once fully agreed, will also meet the required compensation for the seabird assemblage as a whole, and therefore consider no stand-alone compensatory measure proposal is required.

ExA's Reasoning

- 26.8.89. The ExA notes a continued point of dispute between the Applicant, NE and RSPB regarding whether an AEol can be ruled out the seabird assemblage.
- 26.8.90. NE maintained a position that an AEol could not be ruled out upon the seabird assemblage qualifying of the FFC SPA, in-combination with other projects. However, NE specified that this position was immaterial because of the Applicant's proposed compensation requirements being applied to individual assemblage components such as kittiwakes, guillemots and razorbills [REP8-043, Table 2-1, ID72]. Consequently, no specific compensation was required for NE's predicted adverse effect on the seabird assemblage.
- 26.8.91. As discussed above, both kittiwakes and guillemots are subject to compensatory measures as will be commented on in the next section of this Chapter. The Applicant withdrew compensatory measures for razorbill at the close of the Examination on the basis of the Hornsea 4 decision. The ExA has resolved in above that an AEol upon the razorbill component species of the FFC SPA can be ruled out.
- 26.8.92. It logically follows that concerns regarding an AEol upon the seabird assemblage relate to kittiwake and guillemots. On the basis of the information before the Examination and the substantiated position of NE, the ExA concludes that an AEol cannot be ruled out for the seabird assemblage feature the FFC SPA from the

Proposed Development in-combination with other plans or projects. Should the SoS disagree, it is recommended that the SoS undertake further consultation with the ANCB.

GW SPA

RTD – displacement/ barrier effects

- 26.8.93. The potential impact pathways considered by the Applicant for AEol of the RTD of the GW SPA included:
- construction phase displacement/barrier effects from vessel movements;
 - O&M phase displacement/barrier effects from vessel movements; and
 - operational phase displacement/barrier effects from the permanent operational OWF.
- 26.8.94. The Applicant concluded no AEol alone or in-combination [APP-059] to the RTD qualifying feature of the GW SPA, and this position was maintained by the end of the Examination [REP8-062].
- 26.8.95. During the Examination, as noted in the RIES [PD-020] and see also Chapter 7 Offshore Ornithology of this Recommendation Report, NE [REP3-103] [REP2-037] [REP2-049] [REP4-049] [REP5-091] [REP5-093] and the RSPB [RR-083] [REP1-161] expressed concerns with the Applicant's assessment and conclusion for RTD during the Examination. The potential impacts subject to further discussion were associated with disturbance and displacement caused by the construction of the export cable corridor (ECC), O&M vessels transiting from the preferred port at Great Yarmouth to the OWF through the SPA, and displacement from the physical presence of the SEP array. NE [REP8-102] confirmed that as the DEP array is more than 10km from the SPA, no displacement impacts from the DEP array are predicted.
- 26.8.96. At the point of issue of the RIES, NE remained of the view that it was unable to rule out AEol in-combination and that further discussion on avoidance/ mitigation measures was required. NE [REP3-143] considered that AEol from the operational array could be avoided if all turbines be located at least 10km from the SPA.
- 26.8.97. In response to NE's concerns, the Applicant provided [REP5-043, Section 14, Table 5-2] several clarifications regarding the assessment of effects on RTD of the GW SPA. The RTD assessment [REP7-051, Section 13] was further updated with additional calculations and consideration of potential mitigation options.
- 26.8.98. Before the close of the Examination, the Applicant stated that following discussions with NE on 14 July 2023, additional mitigation has been committed to by the Applicant. as follows:
- 1) Seasonal restrictions – a commitment to a restriction to minimise disturbance during the period 1 November to 31 March (inclusive). This is secured in the DMLs [REP8-005] at Schedules 10, 11 and 12 (Part 2, Condition 13(d)(vi)) as part of the PEMP, and as a standalone restriction as Condition 24 to Schedules 12 and 13.
 - 2) Best practice – in addition to the best practice protocols contained in the Deadline 3 version of the OPEMP [REP3-060], the Applicant made a further commitment to control crew transfer vessels and to ensure vessels travelled in convoy, as set out in the D7 OPEMP [REP7-035, Section 5.1].
 - 3) Turbine restriction zone – the Applicant agreed to exclude the construction of wind turbines from the southeast and southwest corners of the proposed SEP array. This exclusion area is approximately 7.56km² and equivalent to a 7.8%

reduction in the buildable area of SEP. This commitment is secured through the final Works Plans (Offshore) (Revision D) submitted at D8 [REP8-004].

- 26.8.99. The Applicant stated that in committing to this further mitigation (i.e., wind turbine exclusion in the SEP array), NE is satisfied that there would be no AEol in respect of the RTD diver feature of the at GW SPA. This was also confirmed in NE's representation at D8 [REP8-102].
- 26.8.100. Although the Applicant has committed to the above mitigation, the Applicant [REP8-038] [REP8-062] did stress that these concessions were made to reach agreement with NE and avoid the need for a derogation case to be made, despite its own established position no AEol would occur.
- 26.8.101. In its final position statement at D8, NE [REP8-102] confirmed that mortality estimates from all impacts are small, and that the additional mitigation beyond the Best Practice Protocol committed to in the Examination, have further reduced the impact from O&M activities. NE agreed that a seasonal restriction to cable laying has removed the impacts from construction of the ECC. NE stated that notwithstanding this, it advised that impacts to the RTD of the GW SPA should be considered in terms of area, both in terms of km² and % of the SPA, and that the commitment by the Applicant to turbine exclusion areas with the SEP array reduces the total area of overlap with the GW SPA from 62.53km² to 43.41km², or from 1.77% to 1.23% of the SPA. NE agree that the reduced array area proposed by the Applicant means that the 10km buffer around SEP only falls within areas that are already subject to displacement impacts from existing OWFs. Although there is the possibility that additional displacement effects in such areas could arise from the additional presence of SEP, given the vast majority of the 1.23% would be closer to either Race Bank or Sheringham Shoal than SEP, NE consider this is unlikely to represent a substantial additional pressure and, on that basis, can advise no AEol of the RTD qualifying feature of the GW SPA from the Proposed Development alone or in combination with other plans and projects.

ExA's Reasoning

- 26.8.102. The ExA is aware of the Applicant's statement that it has reluctantly made the concessions necessary to reach agreement with NE to avoid a conclusion of AEol being reached. Nonetheless, the ExA notes such concessions have achieved the desired effect, with NE confirming at the close of the Examination that an AEol could be ruled out on the RTD feature of the GW SPA and the OTE SPA subject to these measures, particularly the turbine exclusion zone from the proposed SEP wind farm array [REP8-102, Table 2].
- 26.8.103. The ExA recognise a critical dispute between the Applicant and NE on this matter. The ExA has however noted the pre-existing impact upon the GW SPA by existing OWF and the potential augmentation of the impacts arising from the Proposed Development. The ExA are not satisfied with the Applicant's conclusions that, on the basis of scientific evidence, the increased area of displacement effects on RTD would be minimal to a point so as not to result in an AEol. The ExA considers the increased displacement effects, without the mitigation measures listed in paragraph above, would severely compromise the conservation objectives for the RTD feature of the GW SPA.
- 26.8.104. Whilst the suite of mitigation measures to rule out an AEol upon RTD may impact upon the developable area of the SEP array, they are considered wholly necessary in this instance and unlikely to affect the viability of the Proposed Development. Subject to these mitigation measures, as secured in the OPEMP, the conditions within the

dDMLs appended to the dDCO, and the Works Plans [REP8-004], the ExA can conclude an AEol can be ruled out.

Sandwich Tern – Collision Risk

- 26.8.105. Please refer to the NNC SPA sub-section below for the ExA's consideration and conclusions on the Sandwich tern qualifying feature.

Common tern – collision risk

- 26.8.106. The Applicant [APP-059] concluded no AEol to the common tern qualifying feature of the SPA from the Proposed Development alone, or in-combination with other plans and projects. The joint position statement between the Applicant and NE [REP3-103] recorded NE's agreement that there would be no AEol.

ExA Reasoning

- 26.8.107. The ExA note the final position of NE and that it aligns with the Applicant's findings early in the Examination. The ExA has no reason to depart from the joint positions of the Applicant and the ANCB and accepts the conclusions that an AEol can be ruled out.

Little gull – collision risk

- 26.8.108. As noted in the RIES [PD-020], the Applicant [APP-059] concluded no AEol to the little gull qualifying feature of the GW SPA from the Proposed Development, alone or in-combination with other plans and projects.
- 26.8.109. The Applicant provided an update [REP2-036, Section 13], including information in respect of little gull. Following receipt of the update, NE [REP3-103] [REP5-091] [REP8-102] confirmed its agreement that that there would be no AEol either alone or in-combination. NE [REP8-102] confirmed that no HPAI data exists for this species in England.

ExA Reasoning

- 26.8.110. The ExA note the final position of NE and that it aligns with the Applicant's findings early in the Examination. The ExA has no reason to depart from the joint positions of the Applicant and the ANCB and accepts the conclusions that an AEol can be ruled out.

NNC SPA

Sandwich Tern – Collision Risk

- 26.8.111. The Applicant [APP-059] concluded no AEol to the Sandwich tern qualifying feature of the NNC SPA (and GW SPA) from the Proposed Development alone, but concluded there would be an AEol in-combination with other projects. The Applicant therefore engaged with the derogations for this site and feature and proposed compensatory measures.
- 26.8.112. NE [REP3-103] [REP5-091] [REP8-102] confirmed agreement with the Applicant that there would be no AEol of Sandwich tern from the Proposed Development alone. NE also agreed with the Applicant that AEol in-combination with other OWFs cannot be ruled out.
- 26.8.113. NE [RR-063] [REP3-146] [REP5-091] [REP5-093] raised modelling concerns during the Examination in respect of Sandwich tern, as summarised in its final position statement at D8 [REP8-102]. Concerns were initially raised about the CRM, for which

NE requested an increase the avoidance rate to 99% and removing the macro-avoidance element. The Applicant responded [REP1-057, REP2-036, REP5-044]. NE [RR-063] also flagged that data it holds from the National Nature Reserve manager for the Sandwich tern colonies in question [APP-059, Table 9-43] presents some discrepancies, although these were noted to be mainly minor. The Applicant was requested to respond to the question in the RIES [PD-020, RIES-Q19] regarding the colony data. The Applicant [REP7-062] [REP3-033] confirmed that the amended data have been reviewed, but that these would have no appreciable effect on the PVA outputs, and hence the conclusion to the assessment.

- 26.8.114. Matters were also raised by NE concerning flight speeds options used, density estimates, and the scenarios for the in-combination assessment in respect of consented and built OWF parameters.
- 26.8.115. In respect of the two noted flight speed options, NE places more confidence in the published, peer reviewed speed (Fijn and Gyimesi, 2018). NE noted the relevance of the data from Fijn and Collier (2020) but the flight speed is lower and results in a lower predicted number of collisions (about 18% lower for model based), and as such NE consider is not a precautionary option. The Applicant had initially presented only the Fijn and Collier (2020) flight speed option for the in-combination assessment but provided updated CRM results using Fijn and Gyimesi 2018 at D7 [REP7-051, Tables 14-2 and 14-4].
- 26.8.116. In terms of density estimates, NE confirmed it places more confidence in the outputs using model-based estimates, rather than design-based analysis, but accepts both approaches as valid methods.
- 26.8.117. NE [REP8-102] reiterated that it can only base its position on legally secured parameters, which in most cases are the 'consented' parameters (i.e., Scenario A). However, in the case of Dudgeon OWF, NE confirmed it considers the 'as-built' turbine parameters legally secured due to the specific details within the original Marine Licence. This means NE can also refer to scenario F, which is as per Scenario A apart from the collision estimates for Dudgeon, which are calculated using 'as built' turbine parameters.
- 26.8.118. In respect of HPAI, NE [REP5-091] [REP8-102] confirmed that Sandwich terns were severely impacted by HPAI in 2022, which some of the key impacts at the NNC SPA. NE confirmed that the estimates for NNC SPA are that at least 12% of adults suffered HPAI mortality, which is likely to be an underestimate as the impacts are likely to be over 20% of adults. Furthermore, the productivity was severely reduced (due to both adult and chick mortality). NE stated that at a wider population scale, the European Sandwich Tern network estimated that around 30% of the adult breeding population of Sandwich tern in Europe was lost due to HPAI in 2022. NE concluded that this indicates that the colony (and indeed the site network as a whole) may have increased sensitivity to other impacts, even taking into account that a reduction in the wider Sandwich tern population would be expected to result in a proportionate reduction in any collision/displacement effects at SEP and DEP.
- 26.8.119. NE presented its predicted impacts on the Sandwich tern qualifying feature of the NNC SPA population [REP8-102, Table 7]. NE confirmed agreement that in all cases (SEP, DEP, and SEP and DEP together) that an AEoI alone can be excluded. NE also confirmed that it advises that the conclusions reached at NNC SPA also apply to GW SPA, namely that there is no adverse effect on site integrity alone (i.e., SEP, DEP, and SEP & DEP together) but that an AEoI cannot be ruled out in-combination with other plans and projects [REP8-102, Section 12].

- 26.8.120. In respect of in-combination effects, the predicted level of in-combination mortality arising from collision is in the order of 85-87.8 birds, resulting in an increase to baseline mortality of 8.8-9.1%. NE [REP8-102] notes that this may be an underestimate due to the less precautionary flight speed used, the in-combination projects included are limited to those within the foraging range of NNC SPA, and that the Sandwich tern has a restore conservation objective to return the population to previous levels but there is uncertainty due to HPAI (as noted above). Overall, NE agree that AEol of the Sandwich tern qualifying feature of the NNC SPA and GW SPA cannot be excluded for collision impacts in-combination with other plans and projects. See Section 29.10 below for consideration of the derogations.

ExA Reasoning

- 26.8.121. At the start of the Examination the Applicant had submitted to derogation based on its own modelling and assessments. Whilst revisions and improvements/ refinements were made to the modelling estimates to provide data in a manner that NE requested, they did not change the original position of the Applicant. Ultimately the position that an AEol could not be ruled out was agreed with by NE and the RSPB.
- 26.8.122. Given the agreed position between the Applicant and NE, and the evidence before the Examination, the ExA finds no reason to dispute these findings. An AEol of Sandwich tern of the NNC SPA and GW SPA cannot be ruled out in-combination with other plans or projects.

Common tern – collision risk

- 26.8.123. The Applicant [APP-059] concluded no AEol to the common tern qualifying feature of the SPA from the Proposed Development alone, or in-combination with other plans and projects. The joint position statement between the Applicant and NE [REP3-103] recorded NE's agreement that there would be no AEol.

ExA Reasoning

- 26.8.124. The ExA notes the final position of NE and that it aligns with the Applicant's findings early in the Examination. The ExA has no reason to depart from the joint positions of the Applicant and the ANCB and accepts the conclusions that an AEol can be ruled out.

All qualifying migratory waterfowl (non-breeding): dark-bellied Brent goose, pink-footed goose, knot, wigeon and wildfowl assemblage

- 26.8.125. The Applicant [APP-059] concluded no AEol from the Proposed Developments alone or in-combination with other plans and projects to the assemblage of the NNC SPA. The joint position statement between the Applicant and NE [REP3-103] records NE's agreement with the Applicant's conclusion of no AEol.

ExA Reasoning

- 26.8.126. The ExA note the final position of NE and that it aligns with the Applicant's findings early in the Examination. The ExA has no reason to depart from the joint positions of the Applicant and the ANCB and accepts the conclusions that an AEol can be ruled out.

OTE SPA

RTD

- 26.8.127. The Applicant concluded no AEoI alone or in-combination [APP-059] to the RTD qualifying feature of the OTE SPA, and this position was maintained by the end of the Examination [REP8-062].
- 26.8.128. Similar to the RTD qualifying feature of the GW SPA above, the potential impacts subject to further discussion during the Examination were associated with disturbance and displacement caused by construction and O&M vessels transiting from the likely favoured port at Great Yarmouth to the OWF through the SPA. NE [REP8-102] confirmed its agreement that as the SEP and DEP arrays are substantially further than 10km from the OTE SPA, no displacement impacts to RTD from the physical presence of the arrays are predicted.
- 26.8.129. As identified in the RIES [PD-020], NE advised that the Applicant provide a range of mortality rates of 1% and 10% should be presented for the potential range of displacement effects on RTD. The Applicant presented 100% displacement and 1% mortality from O&M vessels and explained [REP4-031] that it maintains that 1% mortality is sufficiently precautionary, and that there is no evidence to support the application of 10% mortality for birds displaced by O&M vessels.
- 26.8.130. Between the issuing of the RIES and the close of Examination, the Applicant and NE held further discussions on the matter of RTD and mitigation. NE [REP8-102] confirmed that subsequent clarifications from the Applicant with regards to mitigation for impacts from vessel activity has meant that in this instance, not having sight of the 10% mortality rate calculations has not precluded it from making an integrity judgement. NE's final view was that the displacement impact results in an increase to baseline mortality of substantially less than 1% (0.05%), which it agreed is likely to be further reduced by the additional mitigation measures committed to by the Applicant. NE also confirmed that the mitigation measures incorporated into the Best Practice Protocol [REP7-035] mean that it is unlikely that there will be a reduction in the availability of RTD habitat within the SPA due to disturbance/displacement. Thus, NE was agreed that there would be no measurable contribution from SEP and DEP to in-combination effects at the OTE SPA and no AEoI of the RTD from disturbance/displacement from the Proposed Development, either alone or in-combination.

ExA Reasoning

- 26.8.131. The ExA welcomes the additional mitigation measures secured to avoid displacement and disturbance to RTD within the OTE SPA, including the commitment to best practice protocols in the OPEMP. The further commitments from the Applicant within the OPEMP with regards to vessel management and routing provide reassurance that proper consideration has been given to this matter.
- 26.8.132. On this basis, with the mitigation secured in the dDCO and the dDMLs thereto as well as within the management plans accompanying the application, the ExA are confident to agree that an AEoI from the Proposed Development alone or in-combination with other plans and projects can be ruled out in this instance.

26.9. OVERALL FINDINGS IN RELATION TO AEoI

- 26.9.1. Bearing in mind all RRs [RR-001 to RR-125CR], the secured mitigation measures and underlying scientific justification for the relative positions of all parties, the ExA recommends to the SoS that the Proposed Development would not result in an AEoI in relation to the relevant qualifying features of the following sites from the Proposed Development alone or in-combination with other plans or projects:

- SNS SAC – Harbour Porpoise.
- Humber Estuary SAC – Grey Seal.

- The Wash and North Norfolk Coast SAC – Harbour Seal.
- Moray Firth SAC – Bottlenose Dolphin.
- Berwickshire and North Northumberland Coast SAC – Grey Seal.
- Alde-Ore Estuary SPA – Lesser Black-backed Gull.
- GW SPA – RTD and Common Scoter.
- FFC SPA – Razorbill, Gannet and Puffin (as a component of the Seabird assemblage).
- River Wensum SAC – Brook Lamprey, White-clawed Crayfish, Bullhead, Desmoulin's Whorl Snail and watercourses of plain to montane levels with *R. fluitantis*.
- NNC SAC – PFG.

26.9.2. The ExA also agrees that no AEoI would occur on all other European sites considered earlier in this Chapter.

26.9.3. However, the ExA cannot rule out an AEoI beyond reasonable scientific doubt from the Proposed Development in-combination with other plans or projects in relation to the following sites and qualifying features:

- FFC SPA – Guillemot, Kittiwake and Seabird assemblage.
- NNC SPA – Sandwich tern.
- GW SPA – Sandwich tern.

26.9.4. The ExA therefore conclude that the Proposed Development does not meet the integrity test and that the further tests set out in the Habitats Regulations must be applied.

26.10. CONSIDERATION OF THE DEROGATIONS

26.10.1. If the competent authority cannot conclude the absence of an AEoI, such that no reasonable scientific doubt remains, then under the HRA, the Proposed Development can proceed only if there are no alternative solutions and there are imperative reasons of overriding public interest (IROPI) why it should. Suitable compensatory measures must also be secured to ensure the overall coherence of the UK NSN.

26.10.2. The Applicant submitted a derogation case with its application in the document 'Habitats Regulations Derogation: Provision of Evidence' [APP-063]. The case related to:

- the Kittiwake feature of the FFC SPA;
- the Sandwich tern feature of the NNC SPA; and
- the Sandwich tern feature of the GW SPA.

26.10.3. Parts 1 and 2 of the dDCO [REP8-005] provide the necessary legal mechanisms for the consideration, implementation and monitoring of compensatory measures for sandwich terns and kittiwakes respectively.

26.10.4. Despite its position that AEoI could be excluded for the gannet, razorbill and guillemot features of the FFC SPA, the Applicant also submitted a 'without prejudice' derogations case for these features [APP-063]. This document contained wording that, if found necessary, could become Part 3 of Schedule 17 of the dDCO to secure the compensatory measures for those species.

26.10.5. As noted above, the ExA considers that AEoI can be excluded for the gannet and razorbill features of the FFC SPA so this section of the report does not consider the case for derogations for these features. However, in the event that the SoS considers that compensatory measures are required for the razorbill feature of FFC SPA then it should be noted that the measures proposed by the Applicant for razorbill are similar

to those proposed for guillemot, as would be legislated for under Part 3 of Schedule 17.

ALTERNATIVE SOLUTIONS

26.10.6. The Applicant provided its 'no alternative solutions' case [APP-063 section 4]. It is stated to be based on a range of guidance published by Defra and the European Commission [APP-063, Paragraph 37]. The Applicant's case also refers to the HRAs produced by the SoS for the Hornsea Project Three, Norfolk Boreas and Norfolk Vanguard DCO decisions.

26.10.7. The Applicant structured its case around alternative solutions around five stages:

- 1) Stage 1: Describing the need and objectives for the Proposed Development.
- 2) Stage 2: Quantifying the extent of Aeol to the SPAs listed above to determine if any alternative solutions would be less harmful to the sites.
- 3) Stage 3: Screening a long list of potential alternative solutions to produce a shortlist of alternative solutions which could also deliver the objectives identified for the Proposed Development.
- 4) Stage 4: Consideration of the shortlist of alternative solutions to establish if any of them represent a feasible alternative to the Proposed Development.
- 5) Stage 5: Consideration of any feasible alternatives identified to establish if any of these would have a lesser effect on the integrity of the NSN.

Project Need and Objectives

26.10.8. The Applicant's case for the need of the project is based on three strands, the need to reduce greenhouse gas (GHG) emissions, the need for energy security and the urgency of the need for low carbon electricity capacity.

26.10.9. The Applicant's case for the need to GHG emissions is centred on the UK's commitments to reduce carbon emissions by 57% by 2032 compared to emission levels in 1990. This was agreed in the Framework Convention on Climate Change (2015) ('the Paris agreement'), the advice from the Climate Change Committee in 2019 was that 75 Gigawatts of offshore wind energy may be required to reach net zero by 2050 and the British Energy Security Strategy 2022 (BESS) including a target of 50GW of operational offshore wind generation by 2030. The Applicant also noted the emphasis in NPS EN1 on the need for the rapid development of low carbon energy sources to support decarbonisation of the UK's electricity supply, a point also made in the draft NPS EN1. The two offshore wind farms would each generate over 100 Megawatts (MW) each.

26.10.10. The Applicant refers to the 2021 Progress Report from the Climate Change Committee which predicts an increase of around 1.5°C in UK summer temperatures by 2050 set against a global change of 2.7°C. The assessment of the climate risks predicted includes impacts on public health from high temperatures, increased risk and severity of flooding and extreme weather events, impacts on food security and economic impacts including effects on international trade and the viability of coastal communities.

26.10.11. The Applicant considers that the need to deliver energy security is supported by the expected substantial increase in electricity demand as the UK moves toward net zero as described in NPS EN1 and the draft NPA EN1.

26.10.12. The Applicant states that NPS EN1 predicts that 113GW of total generation will be required by 2025 of which 59GW would be new build; 33GW of that would be renewable energy generation. The draft NPS EN1 identifies a similar range of energy

generation options to those described in NPS EN1. Current generation capacity in the UK is stated to stand at 76.6GW in 2021 which is significantly below the 113GW target for 2025 and a reduction in UK generating capacity from 2011 when the NPS EN1 was designated. Total renewable generation capacity is currently below the target for 2025.

26.10.13. The Applicant also noted the potential for the UK to benefit from further cost reductions as a result of further investment in the renewables sector. It cited the considerable reductions in the cost of offshore wind already achieved in the Contracts for Difference process.

26.10.14. Based on the needs case described by the Applicant, it identified the following objectives for the Proposed Development:

- 1) Decarbonisation: To generate low carbon electricity from an offshore wind farm by 2030 in support of the UK target to generate 50GW of offshore wind by 2030 and associated carbon reduction targets.
- 2) Security of supply: To export electricity to the UK National Grid to support UK commitments for offshore wind generation and security of supply.
- 3) Optimisation: To co-ordinate and optimise generation and export capacity with the constraints of available sites and onshore transmission infrastructure whilst delivering project skills, employment and investment benefits in the Norfolk area.

26.10.15. At the close of Examination, the Applicant considered the scale of the impacts on the SPAs to be as follows:

Table 10: Scale of the impacts on the SPAs

Qualifying feature	Effects from Proposed Development alone	In-combination effects
NNC SPA		
Sandwich tern	<p>Combined mortality from collision risk and displacement: 5.54 individuals per annum (95% CI of 0.6 – 16.66) using design-based estimates.</p> <p>6.70 individuals per annum (95% CI of 3.76 – 11.55) using design-based estimates,</p>	<p>Combined mortality from collision risk and displacement: 47.9 to 86.8 individuals per annum using design-based density estimates.</p> <p>48.9 to 87.8 individuals per annum using model-based estimates.</p>
GW SPA		
Sandwich tern	<p>Combined mortality from collision risk and displacement: 5.50 individuals per annum (95% CI of 0.6 – 16.47) using design-based estimates.</p> <p>6.60 individuals per annum (95% CI of 3.73 –</p>	<p>Combined mortality from collision risk and displacement: 47.7 to 86.5 individuals per annum using design-based estimates.</p> <p>48.6 to 87.4 individuals per annum using model-based estimates.</p>

Qualifying feature	Effects from Proposed Development alone	In-combination effects
	11.32) using model-based estimates.	
FFC SPA		
Kittiwake	Collision related mortality: 8.86 individuals per annum (95% CI of 1.25 to 23.76)	Collision related mortality: 487.7 individuals per annum (contribution from the Proposed Development is 1.8%)
Guillemot	Displacement related mortality: 49 individuals using NE's preferred methodology, 4 individuals using the Applicant's preferred methodology	Displacement related mortality: 3,079 individuals using NE's preferred methodology, 220 individuals using the Applicant's preferred methodology

26.10.16. The Applicant's long list of alternative solutions as described in section 4.5 of [APP-063] are:

- 1) 'do nothing' scenario;
- 2) alternative offshore wind farm locations;
- 3) a reduced scale of development;
- 4) alternative design; and
- 5) timing restrictions on operation of the Proposed Development.

26.10.17. The 'do nothing' option is dismissed by the Applicant on the grounds that this approach would not deliver any of the objectives for the Proposed Development or meet any of the identified needs. It notes that the 50-Gigawatt target would require the vast majority of offshore wind farms in the process of seeking consent to go ahead. In terms of offshore wind generating capacity, the Applicant has identified 12.3 Gigawatts from operational wind farms, with approximately 18.9 Gigawatts at the construction and pre-construction stages. A further 4.2 Gigawatts of generating capacity would be delivered by projects currently seeking consent. Another 40.1 Gigawatts of generating capacity is proposed at plan level; the Applicant notes that limited progress has been made on delivering this additional capacity and considers that significant challenges remain in achieving the 50 Gigawatts target by 2030.

26.10.18. In relation to alternative locations, the Applicant advised that OWFs located in other countries would not meet the objectives identified for the Proposed Development. Within the UK, all offshore wind farms are required to secure an Agreement for Lease from the Crown Estate or Crown Estate Scotland. The Crown Estate/Crown Estate Scotland identify suitable locations for offshore wind through leasing rounds informed by HRA and Strategic Environmental Assessment. The Applicant considers that this precludes the use of sites which have not been identified through the leasing rounds.

26.10.19. The Applicant considers that reliance on other alternative offshore wind farms already identified within the various leasing rounds would not deliver the objectives of the Proposed Development. This is on the grounds that there is a significant lag time between the identification of suitable locations in the leasing rounds and offshore

wind farms becoming operational. Despite the 40.1 Gigawatts currently identified across UK waters therefore, delivering 50 Gigawatts by 2030 remains difficult. There is also a risk that other projects may be refused consent or developers may not proceed as has already occurred with several existing projects.

- 26.10.20. The Applicant notes the potential for the repowering of existing offshore wind farms but concludes that most would not be close to the end of their normal life span. Decisions on repowering are considered unlikely by the Applicant to be taken before that point. In addition, any plans to deliver repowering would require detailed assessment of feasibility and environmental impacts and would need to go through a detailed design, procurement and construction process. This approach would not in the Applicant's view provide an alternative solution as it is unlikely that it could deliver any additional generation capacity any more rapidly than the Proposed Development.
- 26.10.21. In summary, the Applicant considers that the 'do nothing', use of alternative locations and repowering existing offshore wind farms would not deliver the objectives of the Proposed Development, particularly the BESS target of achieving 50GW of offshore wind capacity by 2030.
- 26.10.22. The other alternative solutions reviewed by the Applicant relate to the design and operation of the Proposed Development. Reductions in the scale of the development could be achieved by building fewer turbines. The Applicant notes that it reduced the maximum number of turbines in response to the s42 consultation and further review of the market. The design envelope for the Proposed Development assumes that the capacity of individual turbines ranges from 15MW to 18+MW, with the maximum number of turbines associated with the 15MW turbine capacity. However, this is stated to be the largest capacity turbine currently available on the market. In the Applicant's view reducing the number of turbines below the maximum currently proposed, would reduce the Proposed Development's contribution to the 50GW target.
- 26.10.23. The Applicant also reviewed the possibility of reducing collision risk through the use of smaller rotors to reduce the swept area but concludes that if the turbine numbers remained the same, this would reduce the generation capacity of the Proposed Development and so reduce its capacity to contribute to the 50GW target.
- 26.10.24. Restrictions on the timing of the operation to reduce risk to auk species and Sandwich tern, kittiwake and gannet on migration are discounted. The Applicant considers that since the auk species would be subject to displacement effects from the presence of the turbines, there would be no benefit from seasonal restrictions on timing. The timing of peak bird migration is uncertain which makes the use of seasonal restrictions on turbine operation impractical; the Applicant also notes that the draft NPS EN-3 supports this position. Restrictions on turbine operation would also reduce the contribution of the Proposed Development to the generation of low carbon electricity.
- 26.10.25. Other alternative solutions which could have a lesser effect on the qualifying features of the SPA which the Applicant identifies are:
- reducing the array area or otherwise altering it to reduce displacement effects on auk species; and
 - increasing the air gap between the rotor tips and sea level to reduce collision risk mortality for kittiwake, Sandwich tern and gannet.
- 26.10.26. The Applicant considers that these two measures do not represent feasible alternatives. The size of the array area is stated to have been driven by the minimum generating capacity required to develop an economically viable project. The

Proposed Development is also required to meet the capacity density (MW installed per square kilometre) specified by the Crown Estate through the Agreement for Lease (AfL). Reducing the size of the array area by reducing the number of turbines is considered by the Applicant to make the Proposed Development financially unviable. It would also reduce the contribution which the Proposed Development could make to the 50 Gigawatts target.

- 26.10.27. Increasing the capacity density is not considered feasible because of the spacing required to avoid wake effects and interference between the turbines, the wake effect of the existing Sheringham and Dudgeon wind farms, the requirement to avoid other constraints within the existing wind farms and the need to comply with guidance from the Maritime and Coast Guard Agency.
- 26.10.28. The Applicant considers that there are a number of constraints which prevent the wind farm area being moved to another location within the area covered by the Applicant's AfL. These are listed as:
- existing pipelines to the north and east of the DEP North array area;
 - shipping lanes to the south of the DEP South array area and to the east of the SEP;
 - existing Dudgeon Offshore Windfarm (DOW) export cables to the east of SEP; and
 - potential for wake effects on the existing DOW.
- 26.10.29. The Applicant has however, in the interests of affording appropriate mitigation to rule out an AEoI on RTD, reduced the developable area available to the SEP array. The effective 'turbine free' zones are shown on the works plans [REP8-004] as minor reductions to the overall SEP area. No submissions have been made that the reductions impact upon the ability to realise the full development potential or operational capacity of the SEP array, nor that any project viability concerns arise [REP8-062].
- 26.10.30. In relation to increasing the air gap, the Applicant noted that this was increased from 26m to 30m above Highest Astronomical Tide following statutory consultation at the pre-application stage. This reduction is stated by the Applicant to reduce collision risk by 20% for all species and for over twice that for Sandwich tern. Further increases in the air gap are considered to be technically feasible but heavily restricted by the availability of suitable turbine installation vessels. In addition, the rotor size would have to be reduced (already excluded as an alternative solution as described above) or the maximum tip height would have to be increased which would increase impacts on other aspects of the environment. These include potential aviation and visual impacts. It could also lead to an increase in the turbine footprint and scour protection requirements with concomitant effects on benthic ecology. The Applicant considers that these increased impacts would outweigh the limited benefits to ornithology.
- 26.10.31. Aside from the reduction in the SEP area, the Applicant did not consider that there were any feasible alternative solutions and so there were no potential alternative solutions which would lead to less harm on the affected designated sites. No objections were raised or sustained by IPs or the ACNB to this conclusion.

ExA's Reasoning

- 26.10.32. The ExA is satisfied that there are no alternative solutions that would deliver appreciable benefits in terms of reduced adverse effects on the integrity of the impacted SPAs. We are satisfied that alternatives to undertaking the project on a strategic basis have been properly considered at a project inception and design levels. This conclusion does not preclude further design refinements being made

following the completion of further site investigations (in the post-decision stage), for example during the choice of foundation types. These refinements may result in reduced impacts, though no compelling evidence has been presented that they could avoid AEoI.

- 26.10.33. The ExA is satisfied that the Applicant has presented a compelling case that would allow the SoS to conclude that there are no alternative solutions to the delivery of the Proposed Development.

IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST

- 26.10.34. The Applicant's case for the imperative need for the Proposed Development as presented in [APP-063, Section 5] rested on the following points (in summary):
- 1) There is an urgent need to establish a secure, diverse, affordable and resilient energy supply and meet decarbonisation targets. This provides a clear and urgent need for the development of SEP and DEP to help meet the UK Government target of 50GW of offshore wind installed capacity by 2030.
 - 2) Urgent action is required to reduce rising global temperatures and to limit the effects of climate change on human health and safety.
 - 3) The Climate Change Act 2008 (2050 Target Amendment) Order 2019 sets a UK target for at least a 100% reduction of greenhouse gas emissions (compared to 1990 levels) by 2050. This ambitious 'net zero' target will only be met by the crucial contribution from the offshore wind industry.
 - 4) NPS EN1 and EN3 require delivery of substantial amounts of renewable energy with offshore wind being one of the major components. The draft NPS EN1 states there is a 'critical national need'.
 - 5) Decarbonisation of the UK energy supply chain and increasing electricity demand results in a significant deficit in UK electricity supply compared with demand and therefore there is a clear public benefit inherent in the creation of new electricity supply capacity, such as will be provided by SEP and DEP.
 - 6) The UK Clean Growth Strategy (Business Energy and Industrial Strategy, 2017) recognises that actions and investments will be needed to meet the Paris Agreement commitments and that the shift to clean growth will be at the forefront of policy and economic decisions made by governments and businesses in the coming decades. This creates enormous potential economic opportunity – an estimated \$13.5 trillion of public and private investment in the global energy sector alone will be required between 2015 and 2030, if the signatories to the Paris Agreement are to meet their national targets.
- 26.10.35. The Applicant argued that the Proposed Development can be viewed as of overriding interest compared with the extent of harm to the interests protected by the SPAs, because of the public interest from the benefits of the Proposed Development. These are the benefits in the reduction in carbon emissions served by renewable energy generation and the associated benefits to human health, public safety and the environment [APP-063, Paragraphs 211-213].

ExA's Reasoning

- 26.10.36. The ExA notes that the absence of priority habitats and species allows the consideration of benefits of a social and economic nature. The ExA also notes that the extent of the harm to the relevant site features from the Proposed Development alone is relatively small; the AEoI arise from in-combination effects. The ExA is content that the benefits of the Proposed Development, particularly from its contribution to the reduction in UK carbon emissions and maintaining energy security, are sufficient to allow the SoS to conclude that the Proposed Development is of imperative overriding public interest.

COMPENSATORY MEASURES

- 26.10.37. At the beginning of the Examination, the Applicant submitted a package of compensatory measures for the Sandwich tern features of the NNC and GW SPAs [APP-069, APP-070, APP-071] and for the kittiwake feature of FFC SPA [APP-072, APP-073]. These measures were secured through Schedule 17 of the dDCO. While the Applicant maintained throughout the Examination that AEoI on the guillemot feature of FFC SPA could be excluded, it provided a without prejudice set of compensatory measures which could be employed by the SoS in the event that he does not reach the same conclusion. The Applicant also provided draft wording for inclusion in Schedule 17 of the dDCO to secure these measures [REP8-008].
- 26.10.38. The Applicant has committed to delivering the full compensatory packages for each species regardless of whether the Proposed Development is constructed concurrently or sequentially. The full suite of measures would be delivered at the same time, even where this leads to compensation for one project being delivered earlier than would be the case for a standalone project. However, in the event that SEP or DEP are delivered in-isolation, where practical, the scale of compensation would be reduced in proportion to the impacts of the individual project [APP-072, REP7-018, REP7-020].
- 26.10.39. The Applicant considered strategic compensatory measures, measures which would be delivered in collaboration with other OWF developers and measures which would be delivered in association with the Proposed Development alone. As discussed below, while the use of strategic compensation is the Applicant's preferred approach, it has not been possible to confirm the feasibility of this approach.
- 26.10.40. During the Examination the Applicant engaged with both NE and the National Trust (NT) in refining and agreeing a suite of project-led compensatory measures for the designated features. The ExA is content that the Applicant and NE have progressed their discussions throughout the Examination. However, at the close of Examination, while in-principle plans had been developed, detailed plans were not available.

Strategic compensation

- 26.10.41. The Applicant, IPs and the ACNB have common ground in that an effective compensatory measure for Sandwich terns, kittiwakes and indeed the auk species of the FFC SPA is through increases in prey availability. Specifically, the Applicant submits that prey enhancement through closure of sandeel and sprat fisheries within 60km of an affected colony should increase productivity and adult survival [APP-065, Paragraph 85]. Such a measure could not be developer-led, the Applicant argues, and requires a strategic approach led by the UK Government to provide compensation on behalf of the offshore windfarm industry. This was agreed with NE [REP1-139].
- 26.10.42. Should such a strategic approach become available during the pre-construction and construction phase of the Proposed Development, the Applicant has included an option in Schedule 17 to contribute to a Strategic Compensation Fund, such as the Marine Recovery Fund (MRF) as a strategic alternative to project-led measures. This would be implemented wholly or partly in substitution for the project-led compensation measures or as part of an adaptive management approach. On 30 December 2022, the Department for Energy Security and Net Zero (formerly BEIS) published a factsheet on the Energy Security Bill and, more specifically, the offshore wind environmental improvement package in which it stated the Government's intention was to have the MRF operational from late 2023. If the MRF became available in the anticipated timescale of late 2023, then it is possible that the Applicant would be able to utilise the fund within the existing timetable for delivery of SEP and DEP [REP1-036, Q1.14.1.20].

- 26.10.43. The Applicant considers that the ExA can place weight on the Government's stated intention to introduce the MRF. The MRF is now at a more advanced stage than at the point of application, with enabling legislation being included in the latest amendments to the Energy Security Bill. This can give the ExA confidence that the fund will be established. The Applicant also notes that the Collaboration on Offshore Wind Strategic Compensation body has now been established. This body involves representatives from industry, the ANCBs and Non-Government Organisations working to develop strategic compensation measures to allow the delivery of the 50GW target.
- 26.10.44. The Applicant anticipates that the SoS will make a decision on whether to grant development consent for SEP and DEP in Q1 2024, after the Government's target date for the MRF to be established. The Applicant therefore considers that the MRF should give the ExA comfort that a strategic solution will be in place to support SEP and DEP and can be relied upon by the SoS in their decision to grant development consent for SEP and DEP.
- 26.10.45. For the avoidance of doubt, the Applicant considers that its proposed project-led measures are capable of fully compensating for the predicted impacts from SEP and DEP (if required) and is committed to delivering all. However, the MRF provides an additional level of robustness and confidence that the necessary compensation would be delivered as this option could be utilised in place of project-led measures or as an adaptive management measure should project-led measures fail to deliver the necessary level of compensation.
- 26.10.46. NE advises caution because inputting into the MRF is not yet agreed and, due to current uncertainties with mechanisms associated the MRF, that project level compensation is still progressed in parallel to having options available through DCO conditions to progress strategic compensation measures if required and/or when available [REP1-139, Q1.14.1.21] [REP8-103].
- 26.10.47. Similarly, the MMO highlights concerns around the reliance on a fund and mechanism that does not exist. There is no certainty in the implementation of the fund, or that the applicant will be able to rely on it fully for compensatory measures required by the project. There is no guarantee that contribution to the fund would be specifically directed towards the compensation of kittiwakes or sandwich terns. Until the fund is formally introduced by the Government and the distribution criteria of those funds is formally agreed by all parties concerned, then the MMO would recommend the applicants proactively implement their own proposed package of physical and proactive compensatory measures [REP1-116].
- 26.10.48. The RSPB [REP1-161] did not agree with the Applicant that the yet to be legislated and implemented MRF could be relied upon.

ExA conclusion on strategic compensation

- 26.10.49. The ExA recognises the commitments in relation to strategic compensation set out by the Applicant and is satisfied that Schedule 17 [REP8-005], which has been included in the rDCO, and the without prejudice wording to Schedule 17 [REP8-008] is suitably drafted to secure those commitments and the further work required to agree the detail of measures both for both compensation and adaptive management.
- 26.10.50. The need for strategic compensation is recognised by the UK Government as well as in the industry, and it has the in-principle support of both ANCBs and Non-Government Organisations. Nevertheless, neither the MRF nor any other appropriate vehicle for strategic compensation was in place at the end of the Examination.

- 26.10.51. While Schedule 17 of the rDCO secures a commitment to deliver strategic compensation, the detail of the strategic compensation measures themselves, in terms of locations, design, any necessary consents, timescales, and mechanism of implementation, are as yet unknown. As such, the ExA cannot rely on Schedule 17 alone to conclude that the predicted AEoI of the FFC SPA and the NNC SPA can be effectively compensated.
- 26.10.52. However, if the SoS is able to secure and be satisfied that this work could be in place at an appropriate juncture to compensate for the predicted AEoI of the FFC SPA and the NNC SPA., then the SoS may be able to conclude that the, in principle, strategic compensation as proposed could ensure the overall coherence of the UK NSN.

Sandwich Tern (NNC and GW SPAs)

- 26.10.53. While the Applicant's preferred option is the strategic approach described above, it also proposes a package of project-specific compensatory measures for Sandwich tern.
- 26.10.54. The Applicant identified a compensation requirement equivalent to 12-17 adult sandwich terns per annum against the 95% upper confidence limit prediction of the collision risk modelling. This was agreed with NE [REP8-032]. In order to provide this level of compensation, the Applicant's in-principle compensatory measures plan submitted with the application [APP-069, APP-070] contained the following measures:
- creation of a new habitat at Loch Ryan in Scotland, comprising a new inland lagoon for nesting and predator prevention measures;
 - installation of nest boxes and shelters on the Farne Islands Special Protection Area, with erection of bamboo canes to deter predation; and
 - potential payment into a strategic fund as alternative to project-led compensatory measures should the Government establish such a fund.
- 26.10.55. However, at the close of the Examination a new compensatory measure had been added for predator eradication at Blakeney in the NNC SPA [REP7-016]. This was introduced initially at D5 [REP5-049, Q3.14.1.6] by the Applicant in response to negative feedback regarding the compensatory measures proposed at the Farne Islands. The Applicant was clear however that this measure was not a substitute for the Farne Islands proposals, and both proposals should be retained. This is considered further below.

Loch Ryan

- 26.10.56. NE agreed that an inland pool at Loch Ryan could, in principle, contribute to the coherence of the NSN. It would re-establish Sandwich terns in the area following a decline of a previous population, increasing the breeding range of the species and contributing to recruits that the FFC SPA could then draw upon [REP1-139, Q1.14.1.23]. Through early negotiation in the Examination, the Applicant agreed with NE not to pursue a pontoon within the inland pool, opting for an island instead [REP2-017, point 157]. The island would, with a significant water buffer, prevent mammalian predation and thus increase breeding success. NE considered that: "*the principal method of compensation for Sandwich tern at Loch Ryan to represent the best available option for project-level delivery. The provision of breeding habitat at a location that has a historical population (no longer present), but with apparently suitable conditions to support a colony once again with sufficient intervention represents a major potential conservation gain for the species*" [REP1-047].

- 26.10.57. The Applicant confirmed support from Dumfries and Galloway Council for the proposed measure [REP5-050, Appendix A.1] and that the landowner was negotiating on heads of terms for the acquisition of the necessary land to deliver the compensatory measure. The Applicant also recorded that NatureScot had indicated support during pre-Examination consultation on 12 October 2022 [REP5-049, Q3.14.1.1]. The ExA approached NatureScot for comment within third written questions [PD-017] and notified the organisation that the RIES had been published, but no engagement was received.
- 26.10.58. The Applicant provided a legal opinion on the availability and use of compulsory acquisition powers under the Electricity Act 1981 to acquire the site at Loch Ryan should voluntary agreement not be reached [REP4-043]. The Counsel's opinion that, as a last resort, compulsory acquisition powers could legally be pursued in connection with the delivery of compensatory measures at Loch Ryan (or indeed any site beyond the Order limits).
- 26.10.59. In addition, the Applicant reassured the ExA that the definition of "*implementation*" used within Schedule 17 (both Parts 1 and 2 in the dDCO and Part 3 in the rDCO), in the context of the compensatory measures, meant the point that the undertaker has completed construction or delivery of the relevant compensatory measures [REP5-049, Q3.14.1.14].
- 26.10.60. More detail on the potential inland pool were provided at D7 close to the end of the Examination [REP7-016, section 7.4.4, Figures 7-2 and 7-3], with four indicative locations shown each exceeding 2 hectares (ha) in size. The Applicant provided a technical note to demonstrate that the compensation of 12-17 sandwich terns per annum would be achievable through the Loch Ryan site alone [REP7-053].
- 26.10.61. NE were generally supportive, noting that the measure has the potential to restore a Sandwich tern colony in part of its previous range, increase the number of recruits into the wider Sandwich tern population and be of a sufficient quantum to compensate for the adult mortalities identified [REP8-103].
- 26.10.62. However, NE flagged significant deficiencies in the information before the Examination, requesting further detail regarding the tenure, location, design and operation of the inland pool for stakeholder comment [REP5-092]. This was not forthcoming, with NE raising significant concern with the lack of progress throughout the Examination towards providing certainty for this measure. At the close of the Examination, NE concluded [REP8-032, REP8-103] that: "*...despite making some progress towards identifying a site, the Applicant has not confirmed or agreed tenure for a specific location nor provided a detailed concept design concept to the Examination. In the absence of such information, Natural England advises that the measure cannot be considered secured. Furthermore, the concerns in Natural England's relevant representations regarding the design principles that relate to the setting of the proposed nesting islands (open water or open land) have not been addressed during the Examination, meaning that without the Applicant adopting a more expansive approach to habitat creation, we have insufficient confidence that the habitats created will be sufficiently attractive.*"
- 26.10.63. The Applicant said that the Loch Ryan proposals would represent a major qualitative conservation gain adding resilience of the wider NSN and therefore there is a high degree of confidence in the ecological merits of this measure. The Applicant further summarises that negotiations are ongoing, outline design requirements have been agreed and the future ongoing timetable takes account of the need for other consents and licences [REP8-062, Paragraphs 182-183].

- 26.10.64. The RSPB advised that it remains concerned that insufficient evidence has been provided by the Applicant on the feasibility and effectiveness of the Loch Ryan proposals to support the conclusion that the proposals would be sufficient to maintain the coherence of the NSN [REP8-116].

Farne Islands

- 26.10.65. Up until D4, the Applicant proposed measures at the Farne Islands SPA where it was reported that the existing Sandwich tern population was suffering severe decline [REP2-017, point 171].
- 26.10.66. The NT, managing the Farne Islands, objected to the measures on the basis they did not represent additionality to the measures already being promoted through the draft Farne Islands Management Plan 2021 [AS-042]. There was also little evidence to suggest that the installation of bamboo canes was an effective way to deter predation. NE reinforced the NT's position.
- 26.10.67. The Applicant quoted the Energy Security Bill insofar as: "*Government is also considering enabling developers to undertake work already identified by Government to improve the condition of protected species and habitats. This would substantially increase the number of measures available to developers and also accelerate marine recovery for some sites*" [REP2-043]. It was the Applicant's view that the Farne Islands Management Plan would become a government document and thus the Applicant would be eligible to pursue its proposed compensatory measures without the need to demonstrate additionality.
- 26.10.68. However, both NE and the NT disputed the status of the Farne Islands Management Plan, with the NT going further to state that the Farne Islands were not available to the Applicant [REP5-088, Q3.14.1.4].
- 26.10.69. The Applicant recorded disappointment at the lack of stakeholder support for the measures at the Farne Islands but wished to retain the proposals as part of the overall package of compensatory measures for sandwich terns [REP5-049, Q3.14.1.6]. This retention was to ensure resilience was provided in case other measures prove unfeasible or unsuccessful and because the Applicant believes further clarity on additionality, soon to be forthcoming in updated DEFRA (in full) guidance on compensation, would demonstrate the Farne Island proposals have merit.
- 26.10.70. The NT confirmed that, if the Applicant sought in the future post-consent to compulsorily acquire land within the Farne Islands to deliver the compensation under the Electricity Act [REP4-043], that it would object and thus trigger special parliamentary procedure [REP5-088, Q3.14.1.5].

Blakeney

- 26.10.71. The Applicant reports being invited to a meeting with NT and NE on 8 June 2023 to discuss an additional potential compensatory measure at Blakeney Point within the North Norfolk Coast SPA [REP5-049, Q3.14.1.6].
- 26.10.72. The Applicant explained that discussions had taken place on potential compensatory measures in the pre-application phase of the Proposed Development, but had been discounted [EV-098, EV-102]. However, as confirmed by the National Trust sandwich terns had failed to breed at Blakeney Point in 2022. Normal site management measures had not successfully identified or resolved the problem, but the failure of the species to breed was largely believed to be a result of an increased rat population resulting from an increase in seal carcasses [AS-067].

26.10.73. At D7 [REP7-016], the Applicant provided an initial draft proposal for this compensatory measure with an accompanying plan and an update to the sandwich term compensatory documents [REP7-016]. The Applicant highlighted that this work is necessarily at an early stage of development and the proposals will be subject to further development following the close of the Examination.

26.10.74. The RSPB, NE and the Applicant were in agreement that management of the rat population at Blakeney Point is challenging (particularly when compared to island populations) given potential colonisation routes along the spit and across Blakeney Harbour (the latter within swimming distance by rats), and also the difficulty in removing seal carcasses [REP7-016, Paragraph 202]. All however recognised the benefits of intervention [REP8-032, REP8-044, REP8-116], although the RSPB considers that it has not been demonstrated that there are any measures which would be additional to those necessary to achieve favourable condition.

Implementation And Adaptive Management

26.10.75. The Applicant's proposals included an element of adaptive management [REP7-016] which would allow the management measures proposed at the different sites. It proposed to work with stakeholders through a Sandwich Tern Compensation Steering Group to develop the final CIMP for approval by the SoS. An outline version of the CIMP was provided at application and was updated during Examination, with a final version submitted at D7 [REP7-017]. The Applicant [REP7-017, Section 2.4] states that in the final version of the CIMP this will identify the monitoring and adaptive management principles and processes, including the situations where further adaptive management measures would be required. NE [REP8-032] recognises the potential value of adaptive management but does not agree with the Applicant's proposed approach to monitoring and notes that without detailed site designs, this limits its ability to determine the appropriate monitoring requirements.

ExA's Reasoning

26.10.76. The ExA considers it highly prudent that the development of compensation packages comprises multiple measures to provide resilience should an individual measure fail or underperform.

26.10.77. Proposals at the Farne Islands do not have key stakeholder support. The ExA considers that the Applicant would not be able to rely upon the aforementioned extract of the Energy Security Bill to deliver measures at the Farne Islands, not just because the key stakeholders disagree over the status of the Farne Islands Management Plan as a Government document, but also because NT would oppose any attempt to acquire land if indeed the Applicant sought to do so. The Applicant's continued inclusion of the measure in the hope that NT changes tact in the future [REP5-049, Q3.14.1.6] does not give reassurance to the ExA. This conclusion is reached even without considering the standing objections from NE and NT as to the effectiveness of nest boxes and bamboo canes proposed.

26.10.78. Proposals at Blakeney are welcomed but unformed to a sufficient degree in order for confidence to be placed in them. It is unclear how the threat of rat predation could be overcome successfully, particularly given the potential for rats to swim past any land barrier. The ExA are wholly uncertain as to the quantity of benefits arising from the measure and as to how effective any potential future solutions would be. Whilst there would be some benefit in understanding the problem further and in seeking to address it, there is no scientific evidence before the Examination to suggest actions would be effective or feasible.

- 26.10.79. At this stage, only the Loch Ryan proposals are suitably supported and explained to a degree that confidence can be given to them as a potential beneficial ecological measure. This is because the proposals at the Farne Islands have no support from key stakeholders and the proposals at Blakeney are early in conception and face numerous practical challenges. Given the limited information presented by the Applicant, the ExA does not consider that much reliance can be placed on the proposals for adaptive management.
- 26.10.80. Therefore, there is reliance on a single compensatory measure only, which represents a high-risk strategy should it fail or underperform. Based on the information submitted into the Examination, NE could not conclude that the measure would be suitable as a sole measure [REP8-103]. It also raises a very pertinent question as to whether sufficient compensation would or could be provided, noting that the Loch Ryan scheme is at present some way from being secured [AS-041, point 5iv]. The ExA advocate a precautionary approach and consider that, whilst Loch Ryan has potential tangible ecological benefits in increasing the geographic spread of the sandwich tern population, there is insufficient clarity on the proposal to justify the confidence that the Applicant places upon the measure.
- 26.10.81. The ExA is therefore unable to advise the SoS that a package of compensatory measures is in place which would protect the coherence of the NSN as required by Regulations 64 and 68. The sandwich tern feature of the FFC SPA would therefore be irreparably harmed, with an AEoI occurring without suitable or sufficient compensation.
- 26.10.82. Unless the SoS, through further consultation, receives substantive and meaningful detail to his satisfaction that a package of compensatory measures will be feasible and will achieve the objective of supporting the NSN, the Proposed Development must be considered to fail this HRA test.

Kittiwakes (FFC SPA)

- 26.10.83. The Applicant's in-principle compensatory measures plan submitted during the Examination [APP-072, APP-073] proposed the construction of onshore artificial nest sites. An initial review of feasible options considered further intervention and addition to structures within the Lowestoft area in the County of Suffolk.
- 26.10.84. East Suffolk Council raised concern regarding this since kittiwakes are already being nested in artificial structures around Lowestoft as a compensatory measure adopted by other projects. In this respect, the Council expressed resistance to any further proposals until a strategic level approach was adopted, particularly as kittiwakes within Lowestoft were coming into conflict with human activity [RR-030, REP1-074, REP1-076].
- 26.10.85. The Applicant consequently shifted focus to an artificial nest structure being constructed at Gateshead in the County of Tyne and Wear. Proposals developed whereby the Applicant would provide additional north-facing walls to a structure granted permission at Saltmarsh in Gateshead to encourage and support successful breeding at that location [REP3-087]. The Applicant maintained that the modifications to the approved kittiwake tower represented additionality, replacing poor-performing south facing nests with kittiwake-preferred north facing nests.
- 26.10.86. The Proposed Development is required to compensate for 17 adult kittiwakes per year based on the most recent upper 95% confidence interval estimates of collision risk (mean = 6.4). The Applicant predicts that the provision of new north faces to the kittiwake tower would increase output to 70 adults per year, or 35 per year into the FFC SPA colony population [REP3-087, Paragraphs 28-32]. In the event of

colonisation of the tower nests taking longer than expected, a mortality debt could accrue. If this occurred, the two new faces of the tower could be maintained beyond the operational period of SEP and DEP and for a sufficient number of years to balance the accrued collision mortality debt. A slow rate of colonisation would have a similar effect and would be addressed in the same way.

- 26.10.87. While NE agreed that artificial nests could in principle contribute to the coherence of the NSN if the measures delivered a net increase in the overall population [RR-063], it remained concerned about confining the measures only to the provision of artificial nesting sites [REP1-139]. Nonetheless, following the Applicant's submission at D3, [REP3-087], NE reported that the Applicant's approach had largely satisfied the requests for additional information on kittiwake breeding performance on the Tyne and its implications for the proposed compensation.
- 26.10.88. Indicative designs for the kittiwake tower modifications were provided to the Examination at D6 [REP6-010]. NE reported that the kittiwake tower designs addressed the initial concerns regarding having kittiwakes facing each other, although noted there was no information regarding how high of the ground the new wall faces would be (noting shelves would only be attractive to kittiwakes if there was reasonable clearance away from vegetation that could conceal predators) and that the indicative designs retained south-facing shelves [REP7-112]. In response, the Applicant confirmed that 8 metre clearance would be achieved between the base of the tower and the lowest point of the proposed new nest face and that the southern shelves were included as an additional habitat benefit [REP8-067].
- 26.10.89. At the close of the Examination, NE was content in principle with the compensatory measures for FFC SPA kittiwakes, considering them to be ecologically and technically viable [REP8-103]. NE did however remain concerned that insufficient information had been provided to the Examination. Key remaining concerns include:
- the lack of a detailed concept design;
 - the proposed lead in time of 3 breeding seasons prior to the first turbines becoming operational, compared to the 4 breeding seasons secured in the DCOs for other OWF projects;
 - although the measure will be in place prior to operation, a decreased lead in time increases the likelihood that the measure will not be delivering compensation at the scale required before impacts occur;
 - maintaining the overall size of the Tyneside colony with no productivity increase or relocating existing successfully breeding birds would not deliver compensatory benefits. Quantifying benefits to the FFC SPA kittiwake population or indeed other sites in the national site network is unlikely to be possible.
- 26.10.90. The RSPB also raised concerns about the level of detail in the Applicant's proposal, querying the adequacy of the evidence on the effectiveness of the measures, the lead-in time for delivery and the length of time the compensation would be in place [RR-083, REP1-161].
- 26.10.91. The Applicant considers that three breeding seasons as opposed to four would be sufficient, citing the Hornsea Three Offshore Wind Farm (Amendment) Order 2023 (Hornsea 3) [REP8-062, Paragraph 212]. On this basis, the Applicant submits that all matters to secure the compensatory measures are in progress in accordance with a suitable timescale and thus the SoS can be confident that there is a clear plan for the practical delivery of the compensation measures [REP8-062, Paragraph 216].

ExA's Reasoning

- 26.10.92. The ExA recognises the compensatory measure has a high degree of ecological merit and the in-principle support of Gateshead Council as landowner and local authority. The legal mechanism set out within the dDCO [REP8-005] provides the appropriate mechanism for the onward development and implementation of the measure.
- 26.10.93. The ExA acknowledge the Applicant's detailed position on the timescales to achieve the compensation set in the kittiwake compensation document [APP-072, Section 6.4.6], and that three breeding seasons is advocated as opposed to four [APP-072, Paragraphs 132-134, Table 6-4]. The assertion that any accrued mortality debt arising from not bringing compensatory measures into effect four seasons in advance could be dealt with in the second year of operation has merit. While the exact circumstances of Hornsea 3 were not explained in the Examination, it does appear to the ExA there is some precedent for a reduced lead-in time for the compensatory measure to be active prior to first operation of a wind turbine. The fact that the actual level of mortality arising from the Proposed Development is relatively small also adds weight to the Applicant's position.
- 26.10.94. For these reasons, the ExA is satisfied that the suite of documents prepared by the Applicant in respect of kittiwake compensation represents a robust and thorough approach. Crucially, if the levels of productivity cited by the Applicant come to fruition, this would support the sustainability of kittiwake population, and ensure the coherence of the NSN. The ExA are confident that the compensatory measures would protect the coherence of the NSN as required by Regulations 64 and 68.

Guillemot (FFC SPA)

- 26.10.95. The Applicant maintained that compensatory measures were not required for guillemot. Nonetheless, the Applicant submitted without prejudice compensatory measures and documents for guillemot at the onset of the Examination. This included the provision of wording to be inserted as Part 3 within Schedule 17 of the dDCO [REP8-008]. Other species included within these documents, namely razorbill and gannet, have been removed following either conclusions from NE or the decision on Hornsea 4, as reported above. The final set of compensatory measures proposed are outlined in the Guillemot and Razorbill Compensation Document (Revision D) [REP7-020]. An Outline Guillemot and Razorbill CIMP has also been submitted [REP5-018].
- 26.10.96. For guillemot, the Applicant proposed the following measures (in addition to the strategic compensation described above):
- bycatch reduction (project-led or in collaboration with other OWF developers); and
 - predator eradication at a breeding colony (Channel Islands).

Fishery Bycatch Reduction and Looming Eye Buoys

- 26.10.97. Fishery bycatch reduction (in this case associated with gillnet fisheries) is considered by the Applicant to be the most suitable measure for project-led delivery. However, the Applicant is aware that other developers have proposed and/or are in the process of implementing similar measures. As such this measure has also been identified by the Applicant as having the potential to be delivered as part of a collaborative delivery model, whereby the Applicant would seek to deliver this measure as compensation or adaptive management through a partnership arrangement with one or more other OWF developers [REP7-020]. The mechanism for reducing bycatch would be through the use of above water deterrents; the Applicant's preferred method is the use of looming eye buoys (LEB) [REP7-020].

- 26.10.98. It should be noted that the Applicant's proposals at submission stage focussed on the potential for bycatch reduction measures to be implemented on a project-led basis in the northeast of England. However, since submission of the application, the Applicant has had further discussions with fisheries stakeholders in the northeast and has ascertained that the level of set net fishing activity and therefore auk bycatch is likely not of a sufficient scale to present a feasible compensation measure. Therefore, the Applicant has re-focussed efforts on the southwest coast of England where there is a much higher concentration of set-net fishing activity and therefore likely to be much higher incidences of auk bycatch [REP3-023].
- 26.10.99. NE raised several strong concerns regarding the Applicant's approach and the efficacy of the compensatory measures, including [REP5-092, REP8-032]:
- 1) The Applicant proposal uses 95% upper Confidence Interval (CI) of 50% displacement and 1% mortality to base compensatory measures (6 guillemot and 3 razorbill adult mortalities per annum). The evidence does not support this, and NE advise using 70% displacement and 2% mortality upper CI (16 guillemot and 7 razorbill adult mortalities per annum).
 - 2) The need should be to save adult auks that form part of the National Site Network rather than auks from the biogeographic population in general.
 - 3) Focusing on the southwest of England is more remote from the impacted colony and therefore there is likely to be a lower level of connectivity with the affected FFC SPA.
 - 4) LEBs are an unproven technology and there are significant reservations regarding the conclusions drawn on the trial carried out by Hornsea Project Four.
 - 5) It is not possible to assess the potential scale or efficacy of the measure without a proven implementation method with fully quantified and independently ratified success rates.
 - 6) Given the uncertainty about the effectiveness of the measures, restricting implementation of the measures to the operational lifetime of the Proposed Development may not provide adequate compensation.
- 26.10.100. The RSPB echo such comments, stating [RR-083]:
- 1) No specific measure with the necessary detail is proposed to enable a proper assessment as compensation. Any proposal must be evidenced and specific to a particular fishery in order to determine if it will result in sustained bycatch reduction for each species beyond the lifetime of the OWF.
 - 2) The Applicant's claim of there being no delay to compensation delivery are not proven.
 - 3) LEBs are an experimental and unproven measure.
- 26.10.101. The Applicant disagreed with using 70% displacement and a 2% mortality rate stating there was no evidence to support this, although it did concede that the SoS applied such rates in the Hornsea 4 decision [REP8-052, Table 1, ID2]. Nonetheless, the Applicant concluded that the predicted annual mortality of guillemot from SEP and DEP is extremely small and that the proposed bycatch reduction compensation measure would account for 1:1 losses due to offshore wind farm impacts, with no delay following implementation [REP8-062, Paragraph 224].
- 26.10.102. The Applicant highlighted the fact that bycatch reduction through the use of LEBs was considered both technically feasible and deliverable, and likely to be additional to standard measures required for the management of protected sites under the Habitats Regulations [REP5-062, Table 1, ID3] [REP8-062, Paragraph 226-228]. In terms of the relative remoteness between the FFC SPA and the southwest of England where the compensatory measure would be deployed, the Applicant acknowledged that there would unlikely be a direct benefit to the FFC SPA. However,

since the adult auks 'saved' by the measure would form part of the Western Waters Biologically Defined Mobile Population Scale, within the foraging range of the Skomer, Skokholm and Seas off Pembrokeshire SPA, there would still be benefits to the NSN as a whole [REP7-021, Table 10-1, ID12].

- 26.10.103. The ExA sought opinions from both NE and the RSPB following the publication of the Hornsea 4 decision [PD-022], though neither changed their positions at the close of the Examination citing, amongst other things, the very short timeframe to consider the outcome of the Hornsea 4 decision prior to being required to comment [REP8-108], [REP8-116]. NE remain staunchly opposed to the proposals, concluding [REP8-103, Pages 12-14]: *"The measure relies on a single method which we consider to still be at the trial phase. We cannot make any assessment of the scale of measure that might be achievable without a proven implementation method, and a quantified assessment of bycatch levels at the target fishery."*

Predator eradication

- 26.10.104. Acting as an alternative compensatory measure, the Applicant proposes to tackle predation on guillemots from a breeding colony where predation has an influence on the breeding success of the species. Eradication, the Applicant submits, is a well-established procedure that has brought huge gains to seabird conservation globally [REP7-020, Paragraphs 163-167].
- 26.10.105. The Applicant notes that Hornsea 4 project, which was required to compensate for its own impacts on auks, found that islands in the Bailiwick of Guernsey were therefore suitable for predator eradication as compensation.
- 26.10.106. Predator eradication from a breeding colony has not been developed by the Applicant as a project-led measure. However, as with bycatch reduction, the Applicant is aware that other developers have proposed and/or are in the process of implementing similar measures and has therefore identified this measure as having the potential to be delivered (as either compensation or adaptive management) as part of a collaborative delivery model [REP7-020]. The measure, as an alternative arrangement, may be delivered partly or wholly in place of the previously stated measure of bycatch reduction.
- 26.10.107. NE raised doubt about the efficacy and effectiveness of this measure, particularly when Hornsea 4 would be developing such opportunities for their own compensation purposes [REP3-146, point C30]. In response, the Applicant stated that rat eradication at the Channel Islands would be on a collaborative basis and represents an alternative option that could be delivered wholly or partly in place of the other compensatory measures proposed (the bycatch reduction), and that such was the limited impact of the Proposed Development upon guillemot, that collaborative opportunities alongside Hornsea 4 would be a feasible option [REP5-049, Q3.14.1.8].

Exa's Conclusion on Guillemot Compensatory Measures

- 26.10.108. Taking a precautionary approach, the ExA agrees with NE's starting position and premise that compensatory measures for the guillemot feature of the FFC SPA are required in this instance. Amending Schedule 17 of the dDCO by insertion of a new Part 3 with the text cited in [REP8-008] should be carried out. The ExA have included the necessary wording in the rDCO.
- 26.10.109. The ExA has carefully considered all the evidence submitted to the Examination and consider that there may be merit in the Applicant's reliance upon bycatch reduction. As conceded by NE [REP8-103] there is some evidence to suggest that reducing direct mortality via bycatch reduction might possibly form a basis for compensatory

measures. The Applicant has reported upon successful and promising trials demonstrating such a measure has the potential to be effective, and the ExA is convinced that pursuing such a measure could have the desired benefits.

- 26.10.110. The ExA is aware that the SoS has found bycatch reduction alongside technologies such as LEBs to be a promising compensatory measure, endorsing such an approach for Hornsea 4. The ExA recognises the concerns of NE in this regard but must conclude that the method for the compensatory measure, though still somewhat immature in its proven effectiveness, would be appropriate in this instance.
- 26.10.111. The ExA agrees that the remoteness of the bycatch reduction to the FFC SPA means that it is unlikely the guillemot population at the affected SPA would benefit. It also appears to the ExA that the need to 'save' sufficient adult auks to ensure that the NSN is protected (rather than the just the overall population of those species) is considered qualitatively in the Applicant's D7 submission [REP7-021] but is not factored into the scale of the measure in any quantified way. The ExA are however of the view that, compensating for the loss of 16 guillemots per year represents a small-scale nature of impact, thus justifying the scale of compensation proposed in this instance.
- 26.10.112. Given the limited amount of information that came forward during the Examination, the ExA concur with NE's position [REP8-103] that the predator eradication measure is undeveloped. The ExA are concerned regarding the lack of clarity and detail on the proposals, and that there is no evidence before the Examination that Hornsea 4 would collaborate with the Applicant to allow contributions towards its own compensatory measures. In any event, such a measure is only proposed as an alternative to the bycatch reduction strategy and not as a supplementary or secondary measure. As with Sandwich tern above, this creates a single-strand approach to compensation, with a higher risk associated with it should this single measure not be successful.
- 26.10.113. Therefore, based on the information submitted into the Examination, the ExA cannot conclude that the bycatch reduction measure, on its own and in knowledge that the methods are not to the satisfaction of NE, would be suitable as a sole compensatory measure.
- 26.10.114. Notwithstanding the ExA's position is that Schedule 17 of the dDCO should be amended to include Part 3 compensatory measures [REP8-008] as proposed without prejudice by the Applicant. Failing that the ExA cannot conclude definitively that the compensatory measures proposed for guillemot are adequate or robust.
- 26.10.115. If the SoS took an alternative view, the SoS would need to be satisfied that the Applicant's proposals are sufficiently informed, developed and robust to be capable of protecting the coherence of the NSN as required by Regulations 64 and 68 of the Habitats Regulations.

Seabird Assemblage (FFC SPA)

- 26.10.116. NE maintained throughout the Examination that, due to impacts upon individual component species to the FFC SPA seabird assemblage feature, an AEol could not be ruled out. However, NE also maintained throughout the Examination that species specific compensation for the above-mentioned species, once fully agreed, will also meet the required compensation for the seabird assemblage as a whole, and no stand-alone compensation proposal is required [REP8-102, Page 27].

- 26.10.117. The RSPB provided comment and criticism on the Applicant's species-specific compensatory measures, though did not directly address the matter of whether stand-alone compensation was required for the seabird assemblage [REP1-161].
- 26.10.118. The ExA notes that the Applicant, whilst maintaining the view that an AEoI could be ruled out for the seabird assemblage and its component species, did not raise specific objection to the stance that NE took during the Examination. The ExA consider that, logically, compensation for individual species would equate to compensation for the assemblage as a whole, and therefore believe that NE's position is sensible.
- 26.10.119. To this extent, the kittiwake, gannet, guillemot and razorbill features of the FFC SPA are all components of the seabird assemblage. In this respect, the ExA has already concluded elsewhere in this Chapter that:
- compensatory measures for kittiwake would robust and acceptable;
 - no definitive confidence in the single-strand compensatory measures for guillemot, leaving the strategy as high-risk; and
 - an AEoI can be excluded for razorbill and gannet.

ExA's Reasoning

- 26.10.120. With the concerns expressed regarding the compensatory measures for guillemot, the ExA cannot be certain that the abundance and diversity of the seabird assemblage would be conserved by the Proposed Development. The flaws and risks in the guillemot compensation package, as set out above, would not meet the required compensation for the assemblage as a whole. The ExA therefore considers this would invoke a need for stand-alone compensation for the assemblage, and none has been provided by the Applicant. The ExA advises the SoS that the Applicant may not have provided suitable compensatory measures to protect the coherence of the NSN as required by Regulations 64 and 68.
- 26.10.121. The ExA suggests that the SoS may need to consult on this position, given that neither the Applicant nor IPs would have had a chance to respond. Whether or not the SoS agrees with the ExA regarding compensatory measures as a whole, the SoS would need to be wholly satisfied that the Proposed Development would not undermine the abundance and/or diversity of the seabird assemblage feature in order to conclude that specific compensation is required.

Security and Funding

- 26.10.122. The compensatory measures for Sandwich terns and kittiwakes are set out clearly in Schedule 17 to the dDCO [REP8-005]. Schedule 17 is enacted under Article 46 of the dDCO.
- 26.10.123. The Applicant made some minor alterations to the wording of the Schedule during the Examination at the request of NE [REP8-007] and provided clarity on the definition and meaning of the word 'implementation' [REP5-049, Q3.14.1.14].
- 26.10.124. At the onset of the Examination, the Applicant made clear that its proposals for guillemot (and, at that time, gannet and razorbill) were on a without prejudice basis only. Nonetheless, the Applicant responded to the ExA's request for additional wording for the dDCO should such compensatory measures be deemed necessary by the SoS, providing a draft addition to Schedule 17 [REP8-009].
- 26.10.125. NE had two remaining concerns at the close of the Examination. The first related to the need for further mitigation to be considered should the results of post-construction

monitoring demonstrate greater effects that predicted [REP8-100, Appendix A4]. It was however the Applicant's view that a further clause within Schedule 17 was not necessary, stating conditions 8 and 18 require the Applicant to submit results from the monitoring scheme for the compensation measures at least annually to the SoS and the relevant ANCB. If there is any finding that the measures have been ineffective, then the relevant undertaker must propose adaptive management measures to address this. Any approved measures must be implemented [REP8-061, point A12].

26.10.126. NE's second concern related to both Schedule 17 Part 1 Condition 2 of the dDCO and Schedule 17 Part 2 Condition 12 [REP8-005]. These Conditions require the Applicant to submit plans to the SoS for approval prior to the commencement of any offshore works. The plans relate to the operative nature of to-be-established steering groups specific to delivering sandwich tern and kittiwake compensation, including terms of reference for the steering groups and how often they would meet. NE raised concerns that the condition did not require the Applicant to consult with any ANCB or IP prior to submitting the plans to the SoS [REP8-107, point A8]. The Applicant's view was that the overall structure of the derogation provisions in the dDCO will require extensive engagement and consultation between the members of the steering group and with the SoS. Including additional consultation requirements at this stage in the process has the potential to cause delay in approval of the plan of work [REP1-033, Table 4.18.1, ID15] [REP8-061].

26.10.127. The Applicant provided a derogation funding statement, which was updated at the close of the Examination to reflect the evolved proposals [APP-076] [REP8-017], to which there were no comments from IPs. Given that there remained undefined aspects to the Applicant's compensatory measures, the ExA queried what confidence could be placed on the estimated costs. The Applicant concluded that the SoS can be satisfied that the financial viability of SEP and DEP would not be compromised by the delivery of all or some of the compensatory measures proposed by the Applicant and set out in the Compensation Documents, and furthermore that these compensatory measures can be financed through the existing financial arrangements in place to develop, construct and operate SEP and DEP [REP8-017, Paragraph 64].

ExA's Reasoning

26.10.128. The ExA is satisfied with Parts 1 and 2 of Schedule 17 of the dDCO [REP8-005] as drafted provides the necessary legal security for delivering the compensatory measures. The ExA is also of the view that Schedule 17 should be amended to include the Part 3 text [REP8-008] and that would provide adequate security for the compensatory measures for the Proposed Development. However, this does not mean that the ExA found their applicability, suitability and maturity at the close of Examination to be sufficient, as the ExA has already concluded in the preceding sections.

26.10.129. The ExA has recommended, in Chapter 7 of this Recommendation Report, for an additional clause to be inserted in Schedules 10 to 13 of the rDCO regarding adaptive management and mitigation measures to be considered should monitoring raise the need for it. This rDCO provision would be sufficient in this regard without a need for duplication.

26.10.130. The ExA acknowledges NE's concerns about the lack of consultation on the plans for the steering groups prior the plans being submitted to the SoS. However, the ExA is reassured by the Applicant that, in practice, the Applicant would be involved in active and continuous discussion and negotiation with all stakeholders and ACNBs that would form part of the relevant steering groups throughout the pre-construction, construction, implementation and operation stages of the Proposed Development. To

this extent, the ExA does not see the need for further amendment to Schedule 17 Part 1 Condition 2 or Part 2 Condition 12.

- 26.10.131. In relation to the funding of the compensatory measures, no IPs questioned the validity of the Applicant's derogation funding statement [REP8-017] or the ability of the Applicant to draw upon funds to fully implement and monitor the compensatory measures. On this, the ExA has no reason to question the Applicant's position on this matter and is therefore was satisfied with the information provided into the Examination.

ExA's Overall Conclusions on Compensatory Measures

- 26.10.132. Various matters were discussed during the Examination, with substantial submissions made by the Applicant, NE, the RSPB and others. In response to the Applicant's confidence in its compensatory measure proposals, including those submitted without prejudice, NE and the RSPB were generally aligned in their concerns that the compensation proposals were not fully developed and that there were significant uncertainties around their appropriateness, effectiveness, feasibility, and whether they could be secured.
- 26.10.133. Taking into account the evidence before the Examination in respect of Sandwich tern and guillemot, the ExA concludes that uncertainty remains as to whether the compensation measures, as currently proposed, would be successful in ensuring the overall coherence of the UK NSN. The measures for kittiwake are however further matured, have greater detail and can be afforded greater confidence at this stage.
- 26.10.134. Before placing any reliance on the measures, the ExA suggests that the SoS should require the Applicant to:
- 1) Undertake considerable additional work on the design and detailing of the inland pool at Loch Ryan, including progress towards acquiring the land, to demonstrate a clear and secure route to consenting, implementation and long-term management.
 - 2) Undertake significant additional work to demonstrate that the compensatory measures for guillemot in the southwest of England would provide quantifiable and qualitative benefits to the nearest SPAs and the coherence of the NSN.
 - 3) Provide additional reasoning as to why compensatory measures are not specifically required for the seabird assemblage feature of the FFC SPA, in consultation with NE.
- 26.10.135. Obtaining this evidence may allow the SoS to make an informed decision as the Competent Authority on the overall derogations case of the Applicant. Without the above, it is the ExA's view that the compensatory measures would be incomplete and would therefore fail the Habitats Regulations.

26.11. CONCLUSIONS

- 26.11.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the Proposed Development with respect to adverse effects on potentially affected sites must be assessed by the SoS.
- 26.11.2. The methodology and outcomes of the Applicant's screening for LSE on European sites was subject to some discussion and scrutiny but is considered complete and thorough at the end of the Examination.

- 26.11.3. The ExA's considers that there is sufficient information before the SoS to enable an appropriate assessment to be undertaken, including for the razorbill species as reported in section 29.8 of this Recommendation Report. This includes the impact assessment and the alternative solutions and IROPI derogation tests. If the SoS were to take an alternative view to the Applicant or the ExA on the most appropriate parameters to be used in the various ornithological assessments, the ExA considers that the data and analyses provided in the application documents as supplemented during the course of the Examination can provide a reliable basis for decision making.
- 26.11.4. The ExA's findings are that, subject to the necessary mitigation measures being secured in any made Order (particularly for PFG and for species in the River Wensum SAC), an AEoI can be excluded for all European sites and features assessed except for:
- Sandwich terns of the FFC SPA and NNC SPA from in-combination collision mortality;
 - Kittiwake of the FFC SPA from in-combination collision mortality; and
 - Guillemot of the FFC SPA from in-combination displacement and displacement.
- 26.11.5. The Applicant submitted a formal derogation case that included an assessment of alternative solutions, a case for IROPI, and proposed compensation measures for sandwich tern and kittiwake, whilst providing compensatory measures for guillemot on a without-prejudice basis.
- 26.11.6. The ExA is satisfied that there are no feasible alternative solutions with a lesser adverse effect than the Proposed Development. On the basis of available evidence, the ExA considers that a case can be established for IROPI for the Proposed Development.
- 26.11.7. Schedule 17 of the rDCO contains the necessary provisions for the consideration, consultation, implementation and monitoring of compensatory measures for sandwich terns (Part 1) and kittiwakes (Part 2). Having found that an AEoI cannot be ruled out for guillemot, the ExA has inserted the necessary provisions for guillemot into Part 3 of Schedule 17, taken from the Applicant's without prejudice wording [REP8-008]. It is the ExA's position that, should the SoS decide to make the Order, it should be made in the form of the rDCO.
- 26.11.8. However, notwithstanding the above considerations and the inclusion of Part 3 at Schedule 17, the findings of the Examination are that the overall compensation package as proposed for sandwich terns and guillemots is insufficiently developed and unproven. The ExA therefore concludes that the application fails the relevant tests set out in the Habitats Regulations and, as such, the ExA is unable to recommend that development consent should be granted. Granting consent, on the basis of current information, would result in a breach of Habitats Regulations and would lead to a breach of the UK's international obligations under the Ramsar Convention.
- 26.11.9. Should the SoS agree with the ExA that there are no alternative solutions, that IROPI exist but considers that the Habitats Regulations are passed, the ExA advises the SoS may wish to seek further additional information in order to fulfil the duty of Competent Authority under the requirements of the Habitats Regulations. This may include:
- 1) Details on the design and detailing of the inland pool at Loch Ryan, including progress towards acquiring the land, to demonstrate a clear and secure route to consenting, implementation and long-term management.

- 2) Details to demonstrate that the compensatory measures for guillemot in the southwest of England would provide quantifiable and qualitative benefits to the nearest SPAs and the coherence of the National Site Network.
- 3) Additional reasoning as to why compensatory measures are not specifically required for the seabird assemblage feature of the FFC SPA, in consultation with NE.
- 4) In accordance with the request from NE, should further data become available for other OWF, that this data is incorporated into the Applicant's assessments and the resulting predicted effects on all European sites and features should be updated for the benefit of the decision-making process.

27. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

27.1. INTRODUCTION

- 27.1.1. This Chapter sets out the Examining Authority's (ExA) reasoning and conclusions on the planning balance of the Proposed Development and whether there is a case for the making of a Development Consent Order (DCO) for the Proposed Development. This includes the ExA's reasoning on: project-wide matters that emerged during Examination (reported in Chapter 4 of this Recommendation Report), conclusions reached and weight given to overarching and individual planning issues that were examined (reported in Chapters 5 to 25 of this Recommendation Report), and the conclusion on the Habitats Regulations Assessment (HRA) (reported in Chapter 26 of this Recommendation Report).
- 27.1.2. The ExA's considerations in this Chapter are predicated upon the assumption that the relevant Local Authorities (LAs) have sufficient capacity to enact their role in relation to the discharge of requirements included in the Draft Development Consent Order (dDCO) [REP8-005] and the ExA's Recommend Development Consent Order (rDCO).

Policy and legislative context

- 27.1.3. The ExA has examined the application in line with Section (s) 104(1) of Planning Act 2008 (PA2008). This applies to an application for an order granting development consent where a National Policy Statement (NPS) has effect. The ExA confirms that the application has been examined in the context of s104(1)(2) of PA2008. This requires the Secretary of State (SoS) to have regard to any relevant NPS.
- 27.1.4. In this case, relevant NPSs are Overarching National Policy Statement for Energy EN1 (NPS EN1), National Policy Statement for Renewable Energy Infrastructure EN3 (NPS EN3), and National Policy Statement for Electricity Networks Infrastructure EN5 (NPS EN5).
- 27.1.5. The ExA has considered and concluded on the compliance of the Proposed Development against NPS EN1 and NPS EN3 policies in each assessment area. Overall, the ExA can conclude that if the SoS accepts the ExA's suggested provisions, in particular R35 in relation to the obstacle free zone in the Outer Dowsing Channel for navigation and shipping safety, pursuant to s104(2)(a) of PA2008, the Proposed Development would be compliant with the policies in NPS EN1 and NPS EN3.
- 27.1.6. If the SoS does not accept the suggested R35 in the rDCO, then the ExA must conclude that the policy requirement of NPS EN3 Paragraph 2.6.165 is not met. The ExA's conclusion and the implications of policy non-compliance is discussed later in this Chapter.
- 27.1.7. The ExA has also had regard to s59 of the Marine and Coastal Act 2009 (MCAA2009) and the five Local Impact Reports (LIR) from the relevant LAs, as well as matters prescribed in relation to development of the description to which the application relates and all other important and relevant matters.

Environmental Impact Assessment (EIA)

- 27.1.8. According to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations), the main requirements on the Applicant, are:
- To meet several pre-application stage requirements relating to screening decisions and scoping on in accordance with Regulations 6 to 10;
 - To meet the requirements relating to the preparation of an Environmental Statement (ES) in accordance with Regulations 5 and 14 and Schedule 4; and
 - To meet the assessment of alternatives and the Cumulative Effects Assessment (CEA) under Regulation 14 and Schedule 4.

27.1.9. As reported in Chapter 4 of this Recommendation Report, the ExA can confirm that the Applicant has complied with all pre-application requirements.

ExA's Reasoning on the Adequacy of the Environmental Statement

27.1.10. The ExA is content that the ES and associated information submitted by the Applicant at the time of making the application and subsequently during the Examination, have provided an adequate assessment of the environmental effects of the Proposed Development. The ExA has taken account of the ES and associated information in the Initial Assessment of Principal Issues, while conducting the Examination of the application, and in this Recommendation Report to the SoS.

ExA's Reasoning on Assessment of Alternatives

27.1.11. Drawing together the conclusions in various Chapters of this Recommendation Report, and with regards to the EIA Regulations, the ExA finds that the Applicant's approach to assessment of alternatives as described in the ES is comprehensive and complies with the requirements of the EIA Directive (Regulation 14 and Schedule 4). The ExA is also satisfied that during Examination the Proposed Development has been through sufficient scrutiny to ensure that the Applicant studied reasonable alternatives before determining the chosen options for specific reasons and taking into account the effects of the options on the environment. In that regard, the ExA is also satisfied that the requirements of Section 4.4 of NPS EN1 are met.

ExA's Reasoning on CEA

27.1.12. In line with the Applicant's assessment methodology, the adverse effects of the Proposed Development have been examined on its own and cumulatively with other relevant projects, in each assessment area. It follows, the ExA's reasoning and conclusions in various Chapters of this Recommendation Report takes into account CEA in that assessment area. As such the weighting of the adverse impact or benefit of the Proposed Development in each assessment area takes into account CEA, and CEA has not been weighted separately in the Planning Balance.

27.1.13. On balance, drawing together the conclusions in various Chapters of this Recommendation Report, the ExA finds that the Applicant's approach to CEA meets the requirements of NPS EN1 and EIA Regulations, and is in line with the Planning Inspectorate's Advice Note 17.

ExA's Overall Reasoning on EIA

27.1.14. On account of the following reasons, the ExA is content that the EIA process has been satisfactory and meets the requirements of the EIA regulations:

- the ExA finds that the ES and associated information submitted by the Applicant at the time of making the application and subsequently during the Examination, have provided an adequate assessment of the environmental effects of the Proposed Development;

- the ExA finds that the Applicant's approach to assessment of alternatives as described in the ES is comprehensive and complies with the requirements of the EIA Directive (Regulation 14 and Schedule 4), and Section 4.4 of NPS EN1; and
- the ExA finds that the Applicant's approach to CEA meets the requirements of NPS EN1 and EIA Regulations and is in line with the Planning Inspectorate's Advice Note (AN) 17.

Rochdale Envelope

- 27.1.15. The Applicant proposed multiple Development Scenarios which are explained in the Applicant's Scenarios Statement [APP-314], and in Chapter 4 of this Recommendation Report. The ExA approach to the Proposed Development Scenarios in its consideration of the environmental effects of the Proposed Development and planning balance pursuant of s104(7) of PA2008, and related conclusions are outlined here.
- 27.1.16. First, given the Applicant is attempting to deliver two distinct projects under different commercial ownerships, in a coordinated manner, from planning to construction to operation, the ExA finds that the need for flexibility in the application is justifiable. The ExA also accepts that the Rochdale envelope approach is applicable here and can conclude that the significant effects of a Proposed Development have been properly assessed in line with NPS EN1 (Paragraph 4.2.8) and the NPS EN3 (Paragraphs 2.6.43).
- 27.1.17. Second, the ExA finds that while the Applicant's proposed Development Scenarios represent a wide range of possibilities to be considered under one DCO application, the threshold set in s15 of PA2008 is met in all circumstances. Additionally, on account of efficiencies in the planning process, engagement with stakeholders, and joint consideration of the environment effects of both projects in one Examination, the ExA cannot disagree with the Applicant's position that both the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and the Dudgeon Offshore Wind Farm Extension Project (DEP) coming forwardly jointly as the Proposed Development generally represents an all-round advantage, no matter which Development Scenarios would proceed to construction. In conclusion, the ExA accepts the range of Development Scenarios proposed by the Applicant, and finds that the exclusion of one or more scenarios, given the specifics of the case, is not necessary nor available to the ExA.
- 27.1.18. The ExA finds the additional controls proposed by the Applicant in Requirement (R) 9, R33, Conditions 4 and Condition 24 (Schedules 10 and 11) and Condition 23 (Schedule 12 and 13) secure coordinated working between the two undertakers and provide welcome controls for the Applicant to communicate its choice of Development Scenario with the relevant Local Authority (LA) and the Marine Management Organisation (MMO). To ensure the Applicant can retain the flexibility to do whatever is necessary to deliver both projects in the most coordinated way, the ExA does not propose any further provisions in the rDCO.
- 27.1.19. Third, on the basis of the case made by The Norfolk Parishes Movement for an Offshore Transmission Network (NPMOTN) regarding the balance of benefit, in terms of energy generation, and adverse effects, in terms of construction effects, the ExA considers that the fundamental difference in the quantum of energy generation between Development Scenarios 1a and 1b and all other Development Scenarios must be taken into account in the assessment of the balance of adverse impact of the Proposed Development against its benefits, pursuant of s104(7) of PA2008. As such, the ExA has drawn two planning balance conclusions: first, by weighting the benefits of the Proposed Development, all Scenarios except 1a and 1b, against the adverse impact of the Proposed Development, and second, by weighting the benefits of the

reduced energy generation of Scenarios 1a and 1b, against the adverse impact of the Proposed Development.

- 27.1.20. However due to the limitations in the information before the ExA in terms of the assessment of the worst-case available in the ES, the ExA finds that comparing the reduced benefits of building only SEP or only DEP (1a or 1b) against the full extent of the adverse impact of building both SEP and DEP, would not be a fair assessment. As such, the ExA has been able to afford a different weight in the two planning balances only in the case of socio-economic effects, where the benefits of the Proposed Development would be reduced if only SEP or only DEP were built. In all other cases the ExA, has concluded with only one planning balance weight for all Development Scenarios.

27.2. CONSIDERATIONS IN THE OVERALL PLANNING BALANCE

- 27.2.1. The ExA has explored and considered in Chapters 5 to 25 of this Recommendation Report all issues identified in the initial assessment of principal issues and those raised during the Examination. This Section includes a summary of the ExA's conclusions on planning issues (in the order covered in this Recommendation Report), highlighting measures that are secured in the dDCO/ rDCO and compliance with the policies in NPS EN1, NPS EN3 and NPS EN5, and identifying matters to which the ExA has ascribed either neutral weight, minor weight, moderate weight or substantial weight in the planning balance, either in favour of or against making the Order. The weighting for each matter considered in this Section applies to all Development Scenarios, except in the case of socio-economic effects where different weights are identified and are discussed under that section.

Need for the Development

- 27.2.2. The ExA is satisfied that in line with NPS EN1, the Applicant has demonstrated the need for the Proposed Development and recommends that the SoS should give substantial weight to the contribution that the Proposed Development would make to satisfying the need for this type of energy infrastructure (NPS EN1, Paragraph 3.1.4). The presumption in favour of development for offshore wind farms (OWF), as an energy type set out in NPS EN1, would therefore be engaged (NPS EN1, Paragraph 4.1.2).

Alternatives and Grid Connection

- 27.2.3. The ExA is convinced with the reasons provided that deem Walpole unsuitable for a grid connection for the Proposed Development. Given the Applicant was only offered a connection at Norwich Main, the assessment of alternative grid connections was not possible or indeed required as part of its EIA process. Ultimately, given that National Grid Electricity system Operator Limited (NGESO) grid connection offer is regulated separately under a different relevant legislative framework, and also given Government cannot influence changes to connection contracts in place with NGESO, it is clear to the ExA that the consideration of an alternative grid connections is beyond the scope of this Examination.
- 27.2.4. Taking into account the considerations in NPS EN1 Paragraph 4.4.3, the ExA concludes that the Proposed Development meets the requirements in Paragraph 4.4.2. The ExA's conclusion here has been taken into account in its overarching conclusion on the Assessment of Alternatives in Chapter 4 of this Recommendation Report and earlier in this Chapter.

- 27.2.5. The ExA is content that a viable grid connection has been secured in accordance with Paragraph 4.9.1 of NPS EN1 and Paragraph 2.3.5 of NPS EN5. This is a matter of neutral weight in the planning balance.
- 27.2.6. With regard to the alternative access proposed by Mr Barnard, instead of the Applicant's proposed access ACC60, the ExA was able to witness at an Unaccompanied Site Inspection, the Applicant's rationale for retaining its proposed access points on account of better visibility for cyclists and motorist, and to avoid loss of vegetation. On that basis, the ExA finds that Mr Barnard's proposed access would not be suitable.

Design

- 27.2.7. The ExA takes the view that the design and appearance of the structures and buildings proposed for the onshore substation and the landscape design strategy must form part of a co-ordinated design response that meets the requirements set out in NPS EN1 paragraphs 5.9.8 and 5.9.16.
- 27.2.8. Having particular regard to section 4.5 of NPS EN1, the ExA notes that the Applicant has stated that it has not taken the opportunity to work with the most appropriate professional design consultants available to it at this stage of the Proposed Development to assist it with the design of buildings of such significant scale and mass and that it did not present the ExA with evidence of alternative design solutions for the external appearance at an early stage in the design development of the Proposed Development. It is not clear to the ExA, therefore, that the Applicant had explored the possibility of such alternatives. In doing so, it is the ExA's view that based on the evidence before it at the end of the Examination, the Applicant had not undertaken a design process that is sufficiently robust to fully meet the criteria for good design for energy infrastructure. The ExA therefore, takes the view that the application, as submitted, would not fully comply with NPS EN1 Paragraphs 4.5.3 and 4.5.4.
- 27.2.9. However, the ExA welcomes the Applicant's amended wording to R10 into the rDCO to ensure that the onshore substation and surrounding new landscape proposals are subject to an independent design review process to ensure that they meet the criteria for good design and mitigate, as fully as possible, any adverse impact on the character of the surrounding landscape. For this reason, the ExA concludes that the Proposed Development would comply with NPS EN1 Paragraph 4.5.5. The ExA would, nevertheless, have welcomed the opportunity to hear the views of IPs and to examine the outcomes of an initial design review process during the examination.
- 27.2.10. With the additional wording of R10 incorporated within the rDCO, the ExA is satisfied that that the Proposed Development would meet the criteria for good design set out in NPS EN1 and the Applicant's approach to the design of the Proposed Development would, therefore, carry neutral weight in the planning balance for all Development Scenarios.

Offshore Ornithology

- 27.2.11. The ExA has considered the effects of the Proposed Development on marine and coastal ornithology in the context of the policy framework set by NPS EN1 and NPS EN3, the Marine Policy Statement and the East Inshore and East Offshore Marine Plans (EIEOMP). The ExA is content that the ES addresses all of the relevant types of impact listed in NPS EN3 Paragraph 2.6.101, and that its recommendations on assessment and mitigation (Paragraphs 2.6.102 to 2.6.110) have been properly considered by the Applicant.

- 27.2.12. The ExA welcome the great degree of alignment between the Applicant and Natural England (NE) in the approach to offshore ornithological assessment modelling.
- 27.2.13. The ExA concludes that residual adverse effects would remain for gannet, great black-backed gull, kittiwake and sandwich tern even after embedded mitigation is applied. The ExA observes that, from an EIA perspective, there are no other meaningful forms of mitigation available to prevent collision risk, or to offset the effects, on a number of species. It concerns the ExA that adverse effects remain for great black-backed gull which nothing is being proposed to mitigate.
- 27.2.14. The ExA concludes that the residual adverse effects on razorbill, puffin and common scoter would not be significant from the project alone or in combination. The residual adverse effects upon red-throated diver would only be acceptable to the ExA following the incorporation of the specific mitigation measures, including the prevention of turbine construction in limited areas to the southwest and southeast of DEP, as secured on the works plans [REP8-004]. The ExA however disagrees with the Applicant regarding the predicted impacts on guillemot species and consider an adverse effect would occur on a cumulative basis.
- 27.2.15. The ExA notes the dynamic nature of best practice guidance in the Offshore Wind Farm (OWF) industry as an increasing number of projects begin operation, and it welcomes the opportunities these provide for ornithological monitoring surveys. The results can add to knowledge, help to check impact prediction and inform best practice. In accordance with NPS EN3 Paragraph 2.6.71, the ExA concludes that reasonable measures are proposed by the Applicant and secured with the Offshore In-Principle Monitoring Plan (Offshore IPMP) [REP7-029] to implement proper monitoring of effects arising from the Proposed Development.
- 27.2.16. However, it is important that the Proposed Development reacts to its own effects, and seeks to address any adverse effects that may remain if monitoring shows that adopted mitigation measures are not effective. To this extent, the ExA recommend to the SoS that Condition 20 (Schedules 10 and 11) and Condition 19 (Schedules 12 and 13) [REP8-005] of the dDMLs contained in the rDCO contain a clause requiring adaptive management measures to be implemented, and such clause should be consulted on with the relevant bodies.
- 27.2.17. Despite the Applicant taking positive design steps to reduce collision and displacement risks, there remains some residual adverse impacts. The ExA concludes that there will be a likelihood of adverse effects for gannet, kittiwake, guillemot, sandwich tern and great black-backed gull when the impacts of the Proposed Development are considered alongside those of the consented offshore wind farms used in the ES cumulative assessment [APP-196] [APP-272] [REP5-063].
- 27.2.18. Both the collision and displacement effects would result in harm to offshore ornithology interests.
- 27.2.19. For the purposes of this Examination, the ExA concludes that, subject to the amendments suggested above in the rDCO this matter carries moderate weight against the case for the Proposed Development.

Marine Mammals

- 27.2.20. The ExA is content that the provisions of NPS EN3 (particularly paragraphs 2.6.94 to 2.6.99) have been satisfied and that all relevant legislative and policy tests for this topic have been met. In arriving at this view, the ExA has taken into account the evidence of the relevant statutory advisors and other IPs with specialist ecological expertise.

- 27.2.21. The ExA considers that the ES, taken together with the additional clarification material submitted during Examination (summarised above), presents an adequate assessment of the potential effects on marine mammals from both the Proposed Development alone and cumulatively with other proposals.
- 27.2.22. The ExA considers that the Applicant's approach to marine mammals provides a proportionate approach to the effects on marine mammals appropriately and defines a suitable response to mitigating potential underwater construction noise.
- 27.2.23. The ExA is satisfied that suitable information was provided to the Examination for disturbance and barrier effects upon marine mammals to be assessed. The ExA is persuaded by the Applicant, in conjunction with IPs, that disturbance and barrier effects have been dutifully considered and only result in a minor adverse effect on marine mammal species. The rationale behind the worst-case scenario is sound.
- 27.2.24. The ExA concurs with the position reached by both NE and the Applicant that underwater noise from piling would only result in a minor adverse effect at the seal haul-out site at Blakeney.
- 27.2.25. The ExA considers that a suitable package of mitigation measures has been secured by the end of the Examination, including embedded mitigation such as soft start piling, the requirement for approval of a Marine Mammal Mitigation Protocol and a Site Integrity Plan prior to construction and the ability to stop piling should monitoring indicate that assessed noise thresholds within the Southern North Sea Special Area of Conservation have been exceeded.
- 27.2.26. The ExA is therefore satisfied that the methods of construction for the offshore elements of the Proposed Development have been designed so as to reasonably minimise significant disturbance effects on marine mammals to a minor adverse level.
- 27.2.27. Having regard to the ES and the relevant evidence of all parties to the Examination, it is the ExA's view that there is the potential for minor adverse residual effects on marine mammals as a result of the Proposed Development. These effects relate principally to the disturbance effects of underwater construction noise on harbour porpoise, grey seal, harbour seal and the seal haul-out site at Blakeney Point. This is considered to have minor weight against the case for Development Consent.

Physical and Coastal Processes

- 27.2.28. The ExA is satisfied that the effects of the Proposed Development on sediment transfer and movement would be minimal with some suspended sediment concentration plumes likely, but none that would persist or cause much change to the seabed. Likewise, the evidence suggests that effects on sandwaves would be minimal, though due to some limitations with the data, further monitoring is welcomed.
- 27.2.29. In relation to contaminants, the ES data indicates low and typical levels, but the Applicant has committed to additional post-consent sampling and to use a MMO accredited laboratory. Any effects of the Proposed Development are considered by the ExA to likely be minor, but further sampling is welcomed.
- 27.2.30. The ExA is satisfied that the use of Horizontal Directional Drilling (HDD) at landfall would mean that there would be no adverse impact to coastal processes or features.
- 27.2.31. Overall, in considering the issues relating to the matters of coastal and offshore physical processes, the Proposed Development with the mitigation proposed would

comply with the NPS, such as NPS EN1, Paragraph 5.5.10, Paragraph 2.6.117, and NPS EN3, Paragraph 2.6.197.

- 27.2.32. It is also concluded by the ExA that the Proposed Development would comply with the EIEOMP.
- 27.2.33. There would still be some adverse effects, particularly in relation to sediment disturbance and movement. However, these adverse effects, whether based on the Proposed Development or considered cumulatively with other developments and projects, are limited. The ExA concludes that the matters considered under Coastal and Offshore Physical Processes in this chapter carry a minor level of weight against the making of the Order for all Development Scenarios.

Subtidal and Intertidal Ecology, including Fish and Shellfish

- 27.2.34. On the issues relating to the effects on the Cromer Shoals Chalk Beds Marine Conservation Zone (MCZ), the ExA concludes that there would be long-term or even permanent adverse effects on the MCZ if cable protection measures were used within this designated area. There is clearly a risk that cable protection would be required if burial to sufficient depths was not possible. The ExA agrees with NE that, because the potential impact of cable protection is lasting/long term, site recovery would not be assured. There is reasonable scientific doubt remaining regarding whether the impact of the Proposed Development would hinder the conservation objectives for the MCZ. This would be contrary to the NPS EN3 in respect to the general need to mitigate impacts on subtidal habitats (paragraph 2.6.119) and NPS EN1 in respect to avoiding harm to biodiversity and geological conservation interests (Paragraph 5.3.7), for example.
- 27.2.35. The ExA concluded that if there was to be cable protection used within the MCZ this would be contrary to the conservation objectives of this site and pose a significant risk of hindering the achievement of the conservation objectives stated for the MCZ, which conflicts with Section 126(6) of the MCAA. Consequently, the requirements of s126(7) are engaged and the ExA recommends that a Stage 2 assessment is necessary prior to any consent being granted. As set out in detail in this Chapter, the ExA is satisfied that there are no other means of proceeding other than running cables through the MCZ, and that the benefits to the public with proceeding with the Proposed Development outweighs the potential harm to the environment. In these circumstances, s126(7)(c) the MCAA sets out that the person seeking the authorisation will undertake, or make arrangements for the undertaking of, measures of equivalent environmental benefit to the damage which the act will or is likely to have in or on the MCZ.
- 27.2.36. The ExA feels the final version of the MEEB is suitable and effective. ExA considers that this should be in the rDCO. For this, the Applicant has provided the Proposed Without Prejudice DCO Drafting (Revision D) [REP8-008] and within this there is, under Part 4, the Measure of Equivalent Environmental Benefit. This includes details of the process and the oyster bed proposal as the MEEB. It is the ExA's conclusion that this is suitable and appropriate for the MEEB and necessary if cable protection is used. The ExA therefore recommends to the SoS that the tests under s126(7) of the MCAA are met and the MEEB as set out by the Applicant would be required if cable protection was used in the MCZ.
- 27.2.37. However, as previously set out it is the view of the ExA that the MIMP should be approved by the SoS prior to any laying of cables within the MCZ, rather than before any cable protection is used (as it is currently drafted). It is the cable protection which could result in harm to the MCZ, though with the pre-construction surveys the necessity for cable protection in the MCZ should be known prior to construction

commencing. Submission of the MIMP being necessary prior to the laying of cables should allow for more time between agreeing the MIMP and any potential cable protection being installed, which could be used for the initial stages of the oyster bed development. An amendment to this effect is recommended by the ExA in the rDCO. The Applicant, MMO and NE should be consulted by the SoS as this amendment has been made after the close of Examination.

- 27.2.38. In relation to the chalk features of the MCZ, it is ExA's conclusion that the HDD used at the coast would safeguard most of the chalk features, with a combination of micro-siting and use of flexible burial depths used for cables meaning other outcropping chalk areas should be safeguarded, even if avoiding of impacts to sub-cropping chalk cannot be fully discounted by the Applicant.
- 27.2.39. In relation to benthic species and habitats more generally, the use of pre-commencement surveys and micro-siting would be sufficient to safeguard these valuable features, with approval from the MMO required for the construction method statement (including detailed cable laying plans) and pre-construction surveys, for example. The benthic mitigation overall that would be secured through the rDMLs is such that the ExA is satisfied that the effect of the Proposed Development would be mitigated to a sufficient degree.
- 27.2.40. The effects to fish and shellfish from electro-magnetic fields (EMF) has also been considered. With the commitment to bury the cables where possible and the use of cable protection where not, the ExA is satisfied from the evidence that the effects should be localised and minor in their adverse effects. Similarly, there would be some adverse effects to fish and shellfish through foundations into what may be spawning areas and also from underwater construction noise, but from the evidence these effects would be minor adverse at worst.
- 27.2.41. If there was to be no cable protection used within the MCZ, it is ExAs conclusion from the evidence before it that significant harm would be avoided to biodiversity and geological conservation interests, through cable route selection, micro-siting, and other forms of mitigation. However, if cable protection was to be used within the MCZ, the MEEB is recommended to be necessary by the ExA, which would offset the harm to the MCZ through compensation with the proposed oyster bed. As such, in these circumstances, the Proposed Development would accord with NPS EN1, Paragraph 5.3.7.
- 27.2.42. Furthermore, the EMF impacts are unlikely to create a barrier to fish movement, and so the Proposed Development accords with NPS EN3, Paragraph 2.6.75. Also, the cable installation and decommissioning should be able to be finally designed in a sensitive way, taking into account intertidal habitats and sensitive subtidal environments, which would be achieved through the use of HDD at landfall, for example, thereby according with NPS EN3, Paragraphs 2.6.85 and 2.6.116.
- 27.2.43. The Proposed Development, with the mitigation and MEEB as set out above, accords with policies of the EIEOMP. Policy BIO1, requires that appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East Marine Plans and adjacent areas. Policy MPA1 requires that impacts on the overall Marine Protected Area network must be taken account of in strategic level measures and assessments. Finally, policy CAB1 states a preference should be given to proposals for cable installation where the method of installation is burial. The Proposed Development generally accords with these policies and all others of the Marine Plan on these matters.

- 27.2.44. Overall, the MEEB should be of equivalent value to the MCZ, providing the benefits of an oyster bed restoration to compensate for harm caused by the Proposed Development if cable protection was to be used. With the MEEB taken into account, the Proposed Development would have neutral weight to the planning balance as a result of the impacts to the MCZ, even if cable protection was to be used. However, there would be some adverse effects as a result of the cables running through the subtidal areas as proposed, including through EMF for example.
- 27.2.45. The ExA concludes that the matters considered under Subtidal and Intertidal Ecology including Fish and Shellfish in this chapter, including when considering the cumulative effects, carry a minor level of weight against the making of the Order for all Development Scenarios.

Navigation and Shipping

- 27.2.46. It is the conclusion of the ExA that there is no significant impact as a result of sea room or navigational safety other than at the Outer Dowsing Channel, adjacent to DEP North (DEP-N). The encroachment of DEP-N into this channel would have a direct impact on navigational safety. The ExA is persuaded by the arguments of the Maritime and Coastguard Agency (MCA) that a 1 nautical mile (nm) clearance from a wind farm is reasonable and that the evidence demonstrates that use of the 15.3 metre (m) wreck as a controlling depth is also appropriate. This means that the ExA broadly accepts the MCA calculations that vessels will be constricted into a channel approximately 1.3nm wide, with this being a reduction calculated by the MCA of 58% from the current navigable sea room. Using the Applicant's own calculations on collision risk localised for the Outer Dowsing Channel, being a 23% increase in such risk, leads the ExA to conclude that a narrowing of the channel would result in unacceptable navigational safety impacts and would not be as low as reasonably practicable (ALARP).
- 27.2.47. NPS EN3, in Paragraphs 2.6.147, 2.6.165 and 2.6.163 requires the Applicant to ensure the safety of shipping, to ensure that negative effects of the Proposed development would be minimised to ALARP, and clearly states that wind farms should not be consented where they would pose unacceptable risks to navigational safety after mitigation measures have been adopted.
- 27.2.48. In considering these policies of NPS EN3, the ExA cannot confirm that the Proposed Development would not pose an unacceptable risk to navigational safety, even with the embedded and additional mitigation proposed by the Applicant. The loss of sea room as a result of DEP-N would, as advised by the MCA, pose an unacceptable risk to navigational safety. Though not a route essential to international navigation, it is of strategic importance, and the ExA have concluded that the negative effects would not be reduced to as low as reasonably practicable. The proposal is therefore in conflict with these NPS policies.
- 27.2.49. The further mitigation submitted without prejudice by the Applicant [REP7-065], with the Offshore Works Plans (without prejudice) [REP8-004], falls short of what is required to address the conflict with NPS policy. However, the ExA are persuaded that the mitigation as advised by the MCA, being the obstacle free zone west of the line between the two buoys [REP5-081] would be sufficient to reduce the adverse effects to an acceptable level. This further Requirement is included in the rDCO and as Conditions in the rDMLs. If the SoS accepts the inclusion of R35 and Condition 25 in the rDMLs, then it is ExAs view that the risk to navigational safety would be ALARP and that the aforementioned NPS paragraphs 2.6.147 and 2.6.163 would be met, together with Policies PS2 and PS3 of the (EIEOMP)

- 27.2.50. It is recommended by the ExA to consult with the Applicant and MCA on the final wording of the additional condition. Furthermore, revised works plans would be necessary from the Applicant to reflect these additional Requirements/Conditions restrictions.
- 27.2.51. However, if the If the SoS does not accept the proposed R35 in the rDCO and Condition 25 in the dDMLs, then the ExA must conclude that the policy requirement of NPS EN3 Paragraph 2.6.165 is not met.
- 27.2.52. With the Offshore Safety Management Condition in the rDCOs, there are no concerns from the ExA that the proposed development would impinge in any significant or unacceptable way on search and rescue operations or any other sort of emergency response, thereby being in accordance with NPS EN3 (Paragraph 2.6.164).
- 27.2.53. The ExA acknowledges that the proposed development, particularly at DEP, would increase transit times for shipping operators. However, the ExA is persuaded by the argument made by the Applicant [APP-099] that the worst case would be an approximate 4% increase in journey times, but it would not be significant. On this matter the proposal would be in accordance with the NPS EN3 (Paragraph 2.6.162).
- 27.2.54. To conclude overall, the ExA is more persuaded by MCA's conclusions on navigational safety. With the steps that have been taken with the inclusion of the additional Condition/Requirement for the obstacle free zone in the rDCO and rDMLs to mitigate the adverse effects of the Proposed Development, the ExA is of the view that shipping and navigation would have a minor weight against the making of the Order in any scenario, including consideration of cumulative effects.
- 27.2.55. However, should the SoS reach a different view and not include the additional Condition/Requirement to prevent the encroachment of infrastructure within the Outer Dowsing Channel, then the ExAs view is that Shipping and Navigation would carry substantial weight against the making of the Order in any Development Scenario where DEP-N is developed.

Commercial Fisheries and Fishing

- 27.2.56. The ExA has considered all issues raised in relation to the Proposed Developments potential impacts to commercial fishing. In the first issue, the matter of fishing restrictions was considered, which would particularly impact during the construction and decommissioning phases. However, these impacts would be temporary, and the Applicant has considered mitigation such as potential justifiable compensation payments to potters and also consultation with Weybourne based fishing fleets. The ExA is satisfied that the impacts would be limited as a result.
- 27.2.57. With regards EMF impact, the effects appear to be mainly localised and would be reduced through cable burial and any use of cable protection where necessary. There is a lack of certainty and research on this matter, but based on the evidence before the ExA the impact to commercial fisheries due to EMF would be minimal.
- 27.2.58. The concerns with regards the potential oyster bed MEEB has been considered, but currently there is no certainty that if an oyster bed was developed within the MCZ that this would result in any new or additional fishing restrictions. Such matters could be considered in more detail with the MEEB steering group if needed. Furthermore, the ExA are satisfied that the Applicant could ensure against associated biosecurity risks. Also, from the evidence before ExA an oyster bed, especially of the size proposed, would not have significant impacts to commercial fish and shellfish stocks.

- 27.2.59. Finally, the evidence provided by both Jonas Seafood Ltd (Mr Jonas) and the Applicant persuades the ExA that there should be no significant impacts to the viability to this business or other seafood processors. The focus of management rather than financial compensation should also mean that any seafood processor should not be significantly impacted.
- 27.2.60. It is the conclusion of the ExA that there has been sufficiently detailed evidence and assessment of the impact to commercial fisheries, with mitigation included by the Applicant such as the Fishing Liaison and Co-Existence Plan and the appointment of a Fishing Liaison Officer, along with possible compensation payments to the UK potting fleet where justified. The ExA is also satisfied that the Proposed Development complies with the NPS policies, including those set out in NPS EN3 Paragraphs 2.6.132 and 2.6.136.
- 27.2.61. The Proposed Development would also comply with the EIEOMP, such as policies FISH1 and FISH2, on these issues through co-existence in relation to fisheries and the Proposed Development, and minimising and mitigating the impact to fishing activities.
- 27.2.62. Both the NPS and the EIEOMP policies related to fisheries allows for some adverse impacts, though these should be mitigated and minimised, for example. As such, the Proposed Development can accord with these policies but also have a degree of residual adverse effects.
- 27.2.63. Overall, whilst complying with the aforementioned policies, the ExA considers that the residual adverse effects of the Proposed Development on commercial fisheries and fishing carry a minor level of weight against the making of the Order for all development scenarios, including when considering cumulative effects.

Civil and Military Aviation

- 27.2.64. There remained the National Air Traffic Services (NATS) objection at the end of Examination, but the ExA relies on the submission from the Applicant and NATS suggesting an agreement and the withdrawal of the NATS objection is forthcoming. The ExA relies more heavily on R28 of the dDCO [REP8-005] which sets out that there needs to be agreed mitigation prior to development of any wind turbine generator. Additionally, even if there is a time delay or other impediment in the Applicant reaching an agreement with NATs, the ExA is reassured by the drafting for R28 in the dDCO, which it is understood as being agreed with NATS, and would prevent any impact to civilian aviation radar operations before appropriate mitigation has been agreed with the operator and approved by the SoS.
- 27.2.65. Assuming that the withdrawal of NATS objection is forthcoming, and in considering R28, ExA can conclude that on the issue of aviation radar the Proposed Development meets with the policy requirements of NPS EN1, including Paragraphs 5.4.2 and 5.4.17 in that the development would not have an impact on the safe and efficient provision of en-route air traffic control services for civil aviation.
- 27.2.66. To conclude, with the R28 in place and given the progress between NATS on an agreement with the Applicant the ExA considers that there would be no adverse impact on civilian radar. It is, though, recommended that the SoS should consult with NATS on the status of its objection before determining the application and any comments they may have on R28.
- 27.2.67. With regards to the need to raise the Air Traffic Control Surveillance Minimum Altitude Chart (ATCSMAC) / Minimum Safety Altitude (MSA) minima for Norwich Airport the ExA notes that there was limited information in the Examination and

matters are agreed between the Applicant and Norwich Airport. The ExA also acknowledges that there is no objection from Norwich Airport or helicopter operators relating to this matter through the course of the Examination. The ExA considers that the raising of the MSA and associated changes to the ATCSMAC would affect aircraft, particularly helicopters, and so concludes that this would have a minor adverse effect to aviation [APP-101, Section 15.6.2.4].

- 27.2.68. If the SoS wished to explore this matter further they may wish to require/undertake consultation with the Applicant, the Civil Aviation Authority (CAA) and Norwich Airport. This consultation could request the following or provide comments on:
- require a joint statement between the Applicant, CAA and Norwich Airport to set out next steps, along with timescales and risks;
 - seek representations from the CAA as to whether there is any chance that approval for the change in MSA/ATCSMAC sectorisation is not given;
 - require a joint statement from the Applicant and Norwich Airport with an assessment of civil aviation safety if CAA's approval is not forthcoming;
 - request representations to helicopter operators if they perceive any related safety issues or provide updates on private agreements; and
 - inclusion of a provision in the rDCO to ensure matters are agreed before the parts of the Proposed Development that would affect the MSA commences.
- 27.2.69. Based on the evidence before the ExA, the Proposed Development would not have significant impacts on the operation and safety of Norwich Airport (NPS EN1, Paragraphs 5.4.2 and 5.4.14). However, as set out in the ES [APP-101, Section 15.6.2.4], there would be some minor adverse impact on civilian aviation through the potential need to increase the MSA and amend the ATCSMAC for Norwich Airport, particularly impacting helicopters that may need to divert around the wind farms in certain weather conditions.
- 27.2.70. For defence aviation, taking into account that the Ministry of Defence (MOD) has withdrawn its objection to the Proposed Development, and the Defence Infrastructure Organisation (DIO) / MOD's proposed wording for R27 is included in the rDCO, the ExA is satisfied that, the Proposed Development would have no adverse effects on defence aviation and safety. As such the ExA can conclude that the policy requirements of NPS EN1 Paragraphs 5.4.2, 5.4.14 and 5.4.17 are met.
- 27.2.71. Overall, the ExA consider that the assessment of these issues results in a conclusion that the issues in this chapter carry a minor level of weight against the making of the Order for all development scenarios and when taking into account cumulative effects, due primarily to the potential need to increase the MSA and amend the ATCSMAC for Norwich Airport.

Oil, Gas and Other Offshore Infrastructure and Activities

- 27.2.72. It is the conclusion of the ExA with regards to helicopter access to Perenco's Waveney Installation that an obstacle free buffer around this platform would be sufficient to minimize adverse impacts and allow its continued viable operations until it is decommissioned. There would be some impact to helicopter access above existing levels, especially factoring in the anticipated new CAA regulations, but the level of impact would not be significant. Furthermore, with the 1.26 Nautical Miles (nm) buffer then One Engine In-operable take-offs should be possible.
- 27.2.73. On these issues, it is ExAs conclusion that the Proposed Development accords with the NPS EN3 policies, such as that with Paragraphs 2.6.183 and 2.6.184 as the Proposed Development would not pose an unacceptable risk to safety and the

mitigation, such as the obstacle free buffer for Waveney Normally Un-manned Installation, would ensure disruption and economic losses were minimised.

- 27.2.74. Overall, the ExA consider that all issues covered in this Chapter carry a minor level of weight against the making of the Order for all Development Scenarios, including when considered cumulatively.

Offshore Construction Effects

- 27.2.75. The ExA is satisfied that the Rochdale Envelope approach from the Applicant, manifested in R2 to R6 within the rDCO, is justified and typical of offshore windfarm developments where a number of parameters can only be determined during pre-construction surveying. In this instance, there is an added level of flexibility sought in terms of the construction programme given that SEP and DEP are, in principle, two separate projects each a Nationally Significant Infrastructure Project (NSIP) in its own right.
- 27.2.76. Nonetheless, the ExA considers that the Applicant has taken a sufficiently robust approach and provided reasonable justification for the degree of post-consent decision-making. The flexibility sought in terms of construction programme, the foundation choice and the layout of the turbines is consistent with the expectations of NPS EN3 Paragraph 2.6.43.
- 27.2.77. The ExA is satisfied that sufficient detail on the worst-case scenario has been provided for all aspects of offshore construction and the information provided in the ES allows full assessment of these impacts. We believe suitable controls are in place to govern and regulate future decision-making on the nature of the project post-consent, in consultation with key stakeholders. To this extent, the ExA finds the proposal to meet the requirements of NPS EN1 paragraphs 4.2.7 and 4.2.8.
- 27.2.78. Specific offshore construction related effects have been reported in various other Chapters of this Recommendation Report and been weighed accordingly within those Chapters. On this basis, in relation to the offshore construction effects, the ExA is of the view that the expectations of NPS EN1 Paragraph 5.1.2 are met. As such, offshore construction effects would be neutral in the planning balance.

Historic Environment and Cultural Heritage – Offshore and Onshore

- 27.2.79. On the basis of the evidence and the proposed mitigation that would be secured through the Applicant's dDCO [REP8-005], the ExA considers that all impacts have been addressed such that the Proposed Development would not result in any harm to the historic environment. Furthermore, there is potential for public benefit to derive from archaeological investigation undertaken as part of the Proposed Development.
- 27.2.80. Based on its Examination, the ExA considers that policy requirements with regard to archaeology and the historic environment in NPS EN1 and NPS EN3, and relevant marine plans have been met.
- 27.2.81. The ExA is content that the Applicant has sought to identify and assess the particular significance of any heritage asset that may be affected including the setting of the heritage asset in accordance with NPS EN1 Paragraphs 5.8.11 to 5.8.13.
- 27.2.82. The ExA is satisfied that the Applicant has secured methodologies to record and advance understanding of the significance of heritage assets, proportionate to the degree of significance of the asset in accordance with an agreed and secured written scheme of investigation, as required by NPS EN1 Paragraphs 5.8.20 and 5.8.21.

- 27.2.83. The ExA further notes that the Applicant has put in place Requirements to secure appropriate identification and treatment of potential assets discovered during construction in accordance with NPS EN1 Paragraph 5.8.22.
- 27.2.84. The ExA is satisfied that the design of the Proposed Development has considered known heritage assets and their status, notably designated Protected Wrecks in accordance with NPS EN3, Paragraph 2.6.144.
- 27.2.85. The ExA also considers that policy relevant to marine archaeology in the Eastern Inshore and Eastern Offshore Marine Plans (EIEOMP) has been complied with.
- 27.2.86. Accordingly, the ExA is satisfied that the Proposed Development would have no likely significant effects on the historic environment and is satisfied that mitigation would be adequately provided for and secured through the rDCO, if made. In this respect, the ExA consider that both offshore and onshore historic environment matters would attract neutral weight in the case for the Proposed Development for all Development Scenarios.

Seascape and Visual Effects

- 27.2.87. The ExA concludes that on the matter of the assessment of effects of the Proposed Development on the Norfolk Coast AoNB in EIA terms, Qualities of Natural Beauty (QNB) 2, 3 and 6 would not be significantly impacted by the Proposed Development. The ExA therefore takes the view that QNB 2, 3 and 6 would be conserved but finds no evidence to support a finding that they would be enhanced in the operational phase of the Proposed Development. The ExA is persuaded that the impact on the Norfolk Coast AoNB would be of moderate significance and medium magnitude.
- 27.2.88. The ExA concludes that sufficient evidence has not been presented to it to demonstrate that the impact of the Proposed Development would be so significant as to change the assessment status of QNB 2, 3 and 6 of the Norfolk Coast AoNB to indicate that these qualities are no longer being conserved and enhanced.
- 27.2.89. The ExA is satisfied that the Applicant has carried out an assessment in relation to the impacts on the Norfolk Coast AoNB, which included a CIA that considered impacts on the special QNBs identified for the AoNB and, in the absence of further evidence to support the case for CEA put forward by NE, it concludes that a request to carry out a CEA which assessed the harm from the Proposed Development in addition to the harm from the existing OWF would not be justified in this case.
- 27.2.90. The ExA finds that the Applicant has provided an assessment of impacts on seascape in addition to landscape and visual effects in circumstances where a proposed offshore windfarm would be visible from the shore in accordance with NPS EN3, paragraph 2.6.202 and that it has undertaken a cumulative assessment of Seascape and Visual Impacts in accordance with NPS EN1 Section 4.2.
- 27.2.91. The ExA is satisfied that the Applicant has had regard to the purposes of nationally designated areas and has taken reasonable precautions to avoid compromising the purposes of designation in accordance with NPS EN1, paragraph 5.9.12.
- 27.2.92. Based on the findings set out above, the ExA considers that policy requirements with regards to seascape and visual resources in NPS EN1 and NPS EN3 have been met through consultation and assessment of the impact of the Proposed Development on seascape and visual resources during its construction, operation and decommissioning phases.

- 27.2.93. Taking all of this into account, the ExA concludes that there would be some inevitable impact on seascape and visual resources alone and cumulatively as a result of the Proposed Development and it considers that these would carry minor weight against the case for the Proposed Development for all Development Scenarios.

Traffic and Transport

- 27.2.94. The ExA has concerns that the worst-case scenario has not been appropriately assessed in the ES [APP-110], in relation to traffic and transport. Nonetheless, the ExA is content that the maximum trip generation figures set out in the Outline Construction Traffic Management Plan (OCTMP) [REP5-027, Annex A] have been robustly considered in the ES [APP-110]. As a result, the ExA considers it is absolutely imperative that such maximums are not exceeded to ensure that impacts do not occur above those that have been assessed in the ES, including for other receiving environments such as air quality and noise and vibration that rely upon estimated vehicle movements. Setting this out in a requirement within the dDCO would provide a much greater level of security for local communities that no exceedances would occur and would make it an offence for the Applicant to do so. This would not be the case, as currently drafted in the OCTMP. As a result, the ExA has added the without prejudice wording provided by the Applicant [REP8-052] to R15 of the rDCO.
- 27.2.95. The ExA is content that the Applicant has provided a suitable Transport Assessment (TA) and accompanying travel plan measures which are incorporated into the final iteration of the OCTMP [REP5-027]. It is also clear that the Applicant has consulted National Highways (NH) and Norfolk County Council (NCC) throughout the application's preparation and Examination. The requirements of NPS EN1, Paragraphs 5.13.3 and 5.13.4 have therefore been met.
- 27.2.96. The ExA finds that the Applicant's proposed mitigation measures discussed in this Chapter would ensure that there would be no significant adverse effects on the Strategic Road Network (SRN) and Local Road Network (LRN), including cumulative effects with other developments in the area and on recreational routes. The ExA concludes that the mitigation secured in R15 (OCTMP), R19 (OCoCP) and R24 (PRoW) of the rDCO would ensure that the Proposed Development meets the policy requirements of NPS EN1 Paragraphs 5.13.6, 5.13.8, 5.13.11 and 5.10.24.
- 27.2.97. Although the ExA is content that mitigation measures would reduce effects as far as reasonably possible, in accordance with NPS EN1, there would be residual adverse effects, as is evident from the Applicant's assessment [APP-110], particularly on the LRN, which would undoubtedly affect local communities and businesses. Whilst the assessment may only identify minor residual adverse effects in each case, many of the identified effects could occur at the same time and could cause disruption over a significant period of time, particularly when considered alongside other developments in the area, including the other OWFs.
- 27.2.98. For these reasons, the ExA concludes that traffic and transport effects carry moderate weight against the making of the Order. This would be the case for all Development Scenarios given that all of them could result in traffic movements up to the maximum levels set out in the OCTMP [REP5-027, Annex A].

Noise and Vibration

- 27.2.99. The ExA is content that the noise and vibration effects from the Proposed Development have been robustly assessed in line with NPS EN1, Paragraphs 5.11.4 and 5.11.6.

- 27.2.100. The ExA is persuaded that the information provided by the Applicant demonstrates that no significant effects would occur during daytime hours in accordance with British Standard (BS) 5228-1. The ExA is content that the final iteration of the Outline Code of Construction Practice (OCoCP) [REP8-023], secured by R19 of the rDCO and R20 construction hours of the rDCO provide sufficient mitigation in this regard.
- 27.2.101. The ExA has found that significant adverse noise effects on a number of receptors cannot be ruled out and that the last iteration of the dDCO [REP8-005] provided by the Applicant at R20 would allow such works to be undertaken unrestricted in terms of timing and duration. Consequently, the ExA is of the view that trenchless crossing works at night should be restricted in R20 to emergency works only unless in relation to the three crossings identified that require night-time works to meet statutory undertaker requirements. The ExA is content that night-time works can be undertaken at the three crossings without significant noise effects on the closest receptors following mitigation. The ExA has provided this wording in the rDCO.
- 27.2.102. The ExA is satisfied that following mitigation there are unlikely to be any significant cumulative effects at Bluestone Cottage and The Old Railway Gatehouse, Oulton. The ExA has also found that there would be no significant cumulative noise effects from construction works or traffic.
- 27.2.103. Although no significant adverse effects have been identified by the ExA (should trenchless crossings be restricted to emergency works and at the three crossings identified), in accordance with NPS EN1, Paragraphs 4.5.2, 5.11.4, 5.11.8, 5.11.9 and 5.11.11, there would undoubtedly be minor residual adverse effects at many receptors that would cause disruption. The ExA therefore considers that the effects of construction noise carry minor weight against the making of the Order for all Development Scenarios.
- 27.2.104. For the avoidance of doubt, if the SoS does not accept the ExA's proposed amendments to R20 in the rDCO and trenchless crossings remain unrestricted at night-time, the ExA considers significant adverse residual effects could occur at a number of receptors and the Proposed Development would not meet the requirements of NPS EN1, Paragraphs 4.5.2, 5.11.4, 5.11.8, 5.11.9 and 5.11.11. In this circumstance, the ExA considers that the effects of construction noise would carry moderate weight against the making of the Order for all Development Scenarios.

Land Use

- 27.2.105. The ExA is satisfied that the Applicant's embedded mitigation measures, such as the site selection process and construction methods that include the use of HDD, would avoid higher grades of Best and Most Versatile (BMV) to some extent. Additionally, it is also clear [APP-130, Figure 19.4] to the ExA that the vast majority of land in Norfolk are Grades 1-3. On this basis, the ExA finds that the Applicant has minimised impacts on BMV agricultural land as far as possible in accordance with Paragraph 5.10.8 of NPS EN1.
- 27.2.106. For the reasons given by the Applicant, the ExA acknowledges the difficulty in researching the entire land holding of affected landowners (outside of the Order limits) and therefore ascertaining the exact effects of the Proposed Development on every individual business. In terms of effects on Abbey Farm and Home Farm, Weybourne the ExA is satisfied that access can be maintained at all times to the farm buildings to ensure that there would not be any business-critical impacts on farming operations and both farm businesses. Suitable measures are set out in the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO to ensure this would be the case.

- 27.2.107. The ExA is content that the final iteration of the OCoCP [REP8-023] is sufficient to ensure there would be no significant adverse effect on soils, drainage and water supplies.
- 27.2.108. The ExA is of the view that there are sufficient mechanisms in place to suitably compensate landowners should Agri-environment schemes be impacted by the Proposed Development. Given this and that land would be reinstated to their original condition, the ExA concludes that there would be no significant residual adverse effects on Agri-environment schemes. Further, the ExA considers that 14 days is an appropriate timeframe to set out in Article 16 of the rDCO.
- 27.2.109. The ExA concludes that the Applicant has provided as much information about link boxes as possible at this stage. Further, the ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO provides adequate commitments to minimise effects from link boxes.
- 27.2.110. The ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO and the addition of R32 in the rDCO ensures that there is suitable mitigation in place to prevent any significant adverse effects from ground conditions and contamination.
- 27.2.111. The ExA is content that following the Applicant's amendment to the OCoCP that the Proposed Development would not have any significant adverse effects on Mineral Safeguarding Areas, in accordance with Paragraph 5.10.22 of NPS EN1.
- 27.2.112. The ExA concludes that the Proposed Development is in accordance with Section 5.10 of NPS EN1 as far as the matters discussed in this Chapter relate.
- 27.2.113. Notwithstanding this, the ExA notes that the ES [APP-105] finds that there would be moderate adverse effects from temporary construction works along the cable corridor and permanent moderate adverse effects associated with the loss of BMV agricultural land from the onshore substation. Whilst the ExA accepts that the loss BMV agricultural land cannot be totally avoided, a large amount would be temporarily affected (worst-case 293.46 hectares), including lost permanently at the onshore substation (worst-case 19.54 hectares).
- 27.2.114. Further, and as set out above, the ES [APP-105] finds that there would likely be minor residual adverse effects for numerous other matters both during construction and operation. Whilst in each case, the ExA has found that minor adverse effects would occur, it is quite likely that many landowners would be affected by more than one adverse effect at the same time.
- 27.2.115. For the above reasons, the ExA concludes that Land Use effects carry a moderate level of weight against the making of the Order for all Development Scenarios.

Onshore Habitats and Ecology

- 27.2.116. The mitigation proposed for aquatic wildlife, which would be to an industry standard in a well-established renewable energy industry, gives confidence to the ExA that potential adverse effects would be kept to a minimum. In addition, whilst the ExA note that Wensum Woods is being considered for potential Site of Special Scientific Interest (SSSI) status, the ExA notes that no designated status exists to have a material bearing on the outcome of this Examination. The ExA is reassured that the Applicant's proposed methods of construction and approach to mitigation within the OCoCP and Outline Ecology Management Plan (OEMP), secured in R13 and R19 of the rDCO, would suitably secure the necessary mitigation in this instance to adequately prevent any adverse effects occurring.

- 27.2.117. The ExA is therefore satisfied that the Applicant's approach to mitigation would not hinder NE's assessments or progress towards making such a designation in the future. The ExA considers the Applicant has sufficiently addressed potential impacts on ecological receptors that rely upon onshore watercourses.
- 27.2.118. The ExA recognises the concerns regarding bentonite breakout, particularly in the River Wensum Special Area of Conservation (SAC) / SSSI, where numerous protected features could be jeopardised if suitable mitigation measures were not put in place. However, the ExA is reassured that the Applicant is proposing to control this risk in an industry standard manner. The ExA also notes that the proposed method is the same as other made DCOs. The production of a bentonite breakout plan is contained within the suite of management plans secured in the dDCO and, to that end, the ExA does not conclude that it would be reasonable to impose a further or separate requirement for such a plan to be submitted.
- 27.2.119. The ExA notes that the need for mitigation to protect pink-footed geese (PFG) was highlighted as a concern at the outset of the Examination. That, together with NE's emphasis on following standard and best practice guidance in order to reduce the impacts to a point where an AEol could be ruled out, highlights the importance of the PFG to the NNC SPA.
- 27.2.120. The ExA is concerned that NE has not endorsed the Applicant's bespoke mitigation approach relating to PFG at any level. With the Applicant seeking to adopt a non-standard approach to PFG mitigation, the ExA is not content that the timing or presentation of the mitigation, taking the Applicant's current position, has been sufficiently secured in the dDCO
- 27.2.121. Departing from established advice from NE would represent a risk to the species and a risk that an AEol could not be ruled out upon PFG.
- 27.2.122. The implications of the Applicant's approach from a HRA perspective are detailed in Chapter 26 of this Recommendation Report.
- 27.2.123. The ExA considers that this conflict, and any impact pathway for PFG, could be resolved via an appropriately worded requirement in the dDCO. Therefore, the ExA has included a new provision, R34 in the rDCO to ensure that a PFG mitigation plan is agreed in consultation with NE. The ExA is mindful that the introduction of this additional requirement came too late in the Examination process for all parties to be consulted and for their views to be heard during the Examination. Therefore, if the SoS agrees that the inclusion of R34, is necessary, it should give consideration to consulting the Applicant and IPs on the wording of this requirement.
- 27.2.124. The ExA consider that the Applicant has provided suitably detailed surveys and reports to satisfy Paragraph 5.3.3 of NPS EN1. The Applicant has taken opportunities to conserve and enhance biodiversity. Development should aim to avoid significant harm to biodiversity and geological conservation interests, and with the inclusion of R34, the Applicant would achieve this in accordance with Paragraphs 5.3.7 of NPS EN1.
- 27.2.125. Having regard to the ES, the relevant evidence of all parties to the Examination, and subject to R34 for a PFG mitigation plan in the rDCO, it is the ExA's view that the Proposed Development's residual effects for onshore ecology are minimised, and consequently the ExA would ascribe habitats and ecology – onshore neutral weight in making the Order.
- 27.2.126. If however, the SoS is minded to not include R34 in the Order, the uncertainty over the Applicant's mitigation proposals for PFG would weigh against the case for the

Proposed Development to a limited extent, and consequently the ExA would ascribe habitats and ecology – onshore minor weight against making the Order for all Development Scenarios.

Water Quality and Resources

- 27.2.127. The ExA has found that the sequential test has been appropriately applied and the Proposed Development meets the exception test. Further, the ExA is content that all flood risk and drainage matters, including those cumulatively with Orsted Hornsea Project Three Offshore Wind Farm (Horsea 3) can be appropriately managed through the OCoCP [REP8-023], as secured by R19 of the rDCO.
- 27.2.128. The ExA is satisfied that the mitigation identified in the final iteration of the OCoCP [REP8-023, Sections 8.1.3 and 8.1.4], as secured by R19 of the rDCO, would ensure that there would be no significant adverse effects on Spring Beck.
- 27.2.129. The ExA can conclude that with the secured mitigation [REP8-023, Paragraphs 28, 152 and 155], there would be no significant adverse effects on source protection zones or private water supplies.
- 27.2.130. The ExA concludes that the Proposed Development complies with the Paragraphs 5.7.4, 5.7.9, 5.7.12, 5.15.4, 5.15.5, 5.15.6, 5.15.7 and 5.15.8 of NPS EN1 in relation to flood risk, drainage and water resource and quality matters. The ExA also considers that the Proposed Development complies with the National Planning Policy Framework 2021 (NPPF) and Planning Practice Guidance (PPG) in relation to flood risk matters.
- 27.2.131. Further, the ExA accepts the conclusions of the Water Framework Directive (WFD) Compliance Assessment [REP3-034] that following the implementation of the outlined control measures during construction and operation, there will be no activities that have the potential to cause non temporary effects to the status of any of the river and groundwater bodies assessed and will also not prevent water body status objectives being achieved in the future. The Proposed Development therefore complies with the requirements of the WFD.
- 27.2.132. Notwithstanding all of the above, as set out in the ES [APP-104, Table 18-41] there is the potential for some adverse residual effects for all construction and operational matters considered under this section, including cumulatively with other projects. Subsequently, the ExA concludes that potential effects on water quality and resources, including flood risk carries minor weight against the making of the Order for all Development Scenarios.

Landscape and Visual Effects

- 27.2.133. The ExA notes that the Applicant has sought to provide indicative, conservative estimates of the growth and form of proposed mitigation planting,
- 27.2.134. The ExA concurs with the Applicant's finding that the height and scale of proposed substation equipment would be the main criteria which determine landscape and visual effects. The ExA agrees that it is reasonable to conclude that proposed planting would partially screen buildings and lower equipment and that these effects would be most apparent in closer views of the proposed substation site.
- 27.2.135. However, the ExA finds that if the proposed substation buildings were built at their maximum height, as assessed, then landscape and visual effects could not be fully mitigated by planting and that it would be important for the Applicant to work closely with the LA to develop design proposals for the onshore substation which were of a

sufficiently high standard that they would minimise any impact on the character and visual appearance of the area.

- 27.2.136. The ExA finds that the Proposed Development would result in adverse effects in Landscape and Visual Impact Assessment (LVIA) terms but does not find that it has been presented with evidence during the Examination to demonstrate that these effects, when taken as part of a cumulative assessment alongside other proposed and consented developments, would be worse than the effects of these developments in isolation.
- 27.2.137. The ExA takes the view, therefore, that the design and appearance of the structures and buildings proposed for the onshore substation and the landscape design strategy must form part of a co-ordinated design response that meets the requirements set out in NPS EN1 sections 5.9.8 and 5.9.16 and which has been submitted to and approved by the relevant planning authority as required by R10 and R11 of the recommended DCO.
- 27.2.138. The ExA concludes that the Applicant's case for its approach to tree and hedgerow removal, replanting, aftercare, management and maintenance is well made and agrees with the Applicant and LAs that its approach would be an appropriate and effective tool to be used in calculating the quantum of habitats to be replaced, whilst delivering a positive biodiversity net gain alongside potential opportunities for carbon sequestration and ecological value.
- 27.2.139. The ExA concludes, therefore, that the tree and hedgerow removal, replanting, aftercare, management and maintenance strategy proposed by the Applicant would meet the requirements set out in NPS EN1 Paragraphs 5.9.16 and 5.9.23. In addition, the ExA notes that the Applicant's approach to biodiversity net gain, although not yet required by national policy, has the potential for positive benefit as a result of the Proposed Development.
- 27.2.140. Taking all of this into account, the ExA finds that there would be some inevitable impact on landscape and visual resources alone and cumulatively as a result of the Proposed Development and it considers that overall these would carry minor weight against the case for the Proposed Development for all Development Scenarios.

Onshore Construction Effects

- 27.2.141. Construction effects from traffic and transport, noise and vibration, land use, onshore habitats and ecology (including from air emissions), onshore historic environment and cultural heritage, landscape and visual effects, socio-economic effects and water quality and resources are all considered in those separate Chapters of this Recommendation Report. This section considers all other onshore construction related matters that were examined.
- 27.2.142. The ExA is content that each Development Scenario has been appropriately considered and the worst-case has been assessed in the ES for each topic area. The worst-case relating to traffic and transport is considered in Chapter 18 of the Recommendation Report.
- 27.2.143. The ExA finds that Applicant's controls for pre-commencement activities secured through the additions in Article 2 and R32, and amendments to R13, R18 and R19 are robust and adequately secure controls to relevant pre-commencement activities. The ExA has taken forward all these changes in the rDCO. Given controls that relate to NH are secured through the R15, the ExA is not convinced that NH is required as a consultee in R19, and does not propose any amendments in that regard.

- 27.2.144. The ExA has found that the 60m cable corridor width for trenched crossings and 100m width for trenchless crossings are justified and are necessary for micro-siting and variations in cable design.
- 27.2.145. The ExA is satisfied that the Applicant's approach to the selection and location of construction compounds has sought to optimise efficiency and minimise impacts from construction works on the surrounding area.
- 27.2.146. The selected cable route at Weybourne Woods is appropriate and the ExA has been provided with little in the way of detail that the future developments referred to by the landowners are being progressed. Consequently, the ExA is unable to give any further consideration to the representation or weigh it against the Proposed Development.
- 27.2.147. The ExA has found the Applicant has undertaken a proportionate assessment of health and well-being effects that fulfils the requirements of NPS EN1, Section 4.13. The ExA agrees that the inclusion of the missing groups and outcomes identified by NCC would not materially change the overall findings of the ES [APP-114].
- 27.2.148. The ExA is content that the Applicant has appropriately assessed [APP-279] the potential for EMFs and is satisfied that EMF levels would be well within the International Commission on Non-Ionizing Radiation Protection (ICNIRP) exposure guidelines, even at the Order Limit boundary. The ExA also found that any adverse effects arising from EMFs would be below UK exposure limits and conforms with NPS EN5, Section 2.10.
- 27.2.149. The ExA is content that the rDCO secures effective communication and engagement and would ensure people affected by construction works would be kept well informed, helping to reduce any potential effects on mental health. The ExA has found that the Proposed Development would not have any significant adverse effects on ambulance response times and therefore on the health and well-being of local communities.
- 27.2.150. The ExA agrees with the ES findings [APP-114] that there would be no significant intra-project cumulative effects following the implementation of secured mitigation measures. Further, the ExA has considered the cumulative effects of the Proposed Development with other projects in each individual Chapter for traffic and transport, noise and vibration, air quality, land use, water resources and flood risk and socio-economic. Given that the ExA has found that cumulative adverse effects in each of these case assessment areas would not be significant, the ExA can be confident in the Applicant's conclusion that there would not be any significant adverse cumulative effects, with other projects on the health and well-being of communities.
- 27.2.151. There would, however, there would remain some adverse effects on health and well-being during construction from: noise, air quality, ground and or groundwater contamination effects, physical activity effects and journey time and/or reduced access effects. Further, there would be some adverse effects from noise during operation and some minor wider societal benefits. Whilst a moderate level of wider societal benefits has been found cumulatively, this depends on the delivery of other Proposed Development, which is uncertain. The ExA therefore gives little weight to this finding.
- 27.2.152. The ExA considers the air quality assessment [APP-108] to be robust and that there are unlikely to be any significant cumulative effects in the study area. The Proposed Development is in line with Section 5.2 of NPS EN1.
- 27.2.153. The ExA is content that the final iteration of the OCoCP [REP8-023], secured by R19 of the rDCO, contains effective systems for minimising and managing waste in

accordance with the waste hierarchy. The ExA therefore consider that the Proposed Development complies with Section 5.14 of NPS EN1.

- 27.2.154. Given all of this, the ExA concludes that the Proposed Development accords with the relevant parts of NPS EN1, Sections 4 and 5. It also accords with NPS EN3, Paragraph 2.6.37 and NPS EN5, Section 2.10.
- 27.2.155. Whilst acknowledging the minor societal benefits, there would nonetheless be some adverse effects for many of the matters discussed. Therefore, the ExA concludes that the matters discussed in this section carry a minor level of weight against the making of the Order for all Development Scenarios.

Socio-Economic Effects

- 27.2.156. The ExA considers that the construction effects on tourism would be temporary, and after mitigation the residual adverse effects would not be significant. The ExA concludes that the Proposed Development would be in accordance with the requirements of Section 5.12 of NPS EN1.
- 27.2.157. The ExA has found that there would be sufficient temporary visitor accommodation to house the potential construction workforce of the Proposed Development and those of cumulative projects. Further, the ExA considers the ES assessment [APP-113] of the change in demographics and disturbance to social, community and health infrastructure to be robust, which identifies that any adverse effects would be minor in nature.
- 27.2.158. The ExA is of the view that the final iteration of the Outline Skills and Employment Plan [REP3-072] is sufficient to secure skills and employment benefits to the local area, as set out in the ES [APP-113]. The ExA considers that the creation of direct and indirect jobs and training opportunities, as set out in the ES [APP-113] to be a positive beneficial effect in accordance with Paragraph 5.12.3 of NPS EN1.
- 27.2.159. The ExA agrees with the Applicant that addressing community benefits, as opposed to mitigating adverse effects, is a matter that should be considered outside of the DCO process.
- 27.2.160. There is a compelling case for the delivery of new electricity generation infrastructure from renewable sources and the ES [APP-113] sets out the Proposed Development would provide a contribution to the regional and national economy.
- 27.2.161. The cumulative effects set out in the ES for the economy and employment rely on the other projects coming forward as planned which is uncertain, but this does not affect the level of benefit the Proposed Development itself would bring.
- 27.2.162. Whilst there would be some adverse effects, as identified in the ES [APP-113] to tourism, change in demographics and disturbance to social, community and health infrastructure, these would be minor and mostly temporary. The ExA concludes that the Proposed Development would deliver the policy requirements of Paragraphs 5.12.3, 5.12.6, 5.12.7 and 5.12.8 in NPS EN1.
- 27.2.163. The ExA is mindful that the level of benefits in terms of the economy and employment to the East Anglia region that the Proposed Development might deliver is somewhat uncertain. The ES [APP-113] identifies that there is a wide range of potential economic and employment benefits to the East Anglia region depending on whether or not a local port is utilised. This would be a commercial decision and remains unknown. However, it is important to note that the contribution to the UK economy and employment levels would be the same wherever the port would be located.

- 27.2.164. Further, it is clear from the ES [APP-113] that the delivery of both projects would result in greater benefits than if just one is delivered.
- 27.2.165. The ExA considers that the Proposed Development would make a meaningful contribution to the UK economy and employment levels. In terms of regional benefits, the ExA has taken a conservative approach given that it cannot be guaranteed that a local port would be selected to support construction works.
- 27.2.166. Overall, the ExA concludes that socio-economic factors considered in this section weigh substantially in favour of making the Order for Development Scenarios that result in both projects being delivered and moderately in favour of making the Order for Development Scenarios where only one project would be delivered.

27.3. CONCLUSIONS IN RELATION TO HABITATS REGULATIONS

- 27.3.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoS.
- 27.3.2. The methodology and outcomes of the Applicant's screening for likely significant effects (LSE) on European sites was subject to some discussion and scrutiny but is considered complete and thorough at the end of the Examination.
- 27.3.3. The ExA's considers that there is sufficient information before the SoS to enable an appropriate assessment to be undertaken, including for the razorbill species as reported in Chapter 26 of this Recommendation Report. This includes the impact assessment and the alternative solutions and IROPI derogation tests. If the SoS were to take an alternative view to the Applicant or the ExA on the most appropriate parameters to be used in the various ornithological assessments, the ExA considers that the data and analyses provided in the application documents as supplemented during the course of the Examination can provide a reliable basis for decision making.
- 27.3.4. The findings of the Examination are that, subject to the necessary mitigation measures being secured in any made Order (particularly for PFG and for species in the River Wensum SAC), an Adverse Effect on Integrity (AEoI) can be excluded for all European sites and features assessed except for:
- 27.3.5. Sandwich terns of the Flamborough and Filey Coast (FFC) Special Protection Area (SPA) and the North Norfolk Coast (NNC) SPA from in-combination collision mortality;
- Kittiwake of the FFC SPA from in-combination collision mortality; and
 - Guillemot of the FFC SPA from in-combination displacement and displacement.
- 27.3.6. The Applicant submitted a formal derogation case that included an assessment of alternative solutions, a case for Imperative Reasons of Overriding Public Important (IROPI), and proposed compensation measures for sandwich tern and kittiwake, whilst providing compensatory measures for guillemot on a without-prejudice basis.
- 27.3.7. The ExA is satisfied that there are no feasible alternative solutions with a lesser adverse effect than the Proposed Development. On the basis of available evidence, the ExA considers that a case can be established for IROPI for the Proposed Development.
- 27.3.8. Schedule 17 of the rDCO contains the necessary provisions for the consideration, consultation, implementation and monitoring of compensatory measures for sandwich terns (Part 1) and kittiwakes (Part 2). Having found that an AEoI cannot be ruled out

for guillemot, the ExA has inserted the necessary provisions for guillemot into Part 3 of Schedule 17, taken from [REP8-008]. It is the ExA's position that, should the SoS decide to make the Order, it should be made in the form of the rDCO.

27.3.9. However, notwithstanding the above considerations, the findings of the Examination are that the overall compensation package as proposed for sandwich terns and guillemots is insufficiently developed and unproven. The ExA therefore conclude that the application fails the relevant tests set out in the Habitats Regulations and, as such, the ExA is unable to recommend that development consent should be granted.

27.3.10. Should the SoS agree with the ExA that there are no alternative solutions, that IROPI exist but considers that the Habitats Regulations are passed, the ExA advises the SoS may require further additional information in order to fulfil the duty of Competent Authority under the requirements of the Habitats Regulations. This includes:

- 1) Additional work on the design and detailing of the inland pool at Loch Ryan, including progress towards acquiring the land, to demonstrate a clear and secure route to consenting, implementation and long-term management.
- 2) Additional work to demonstrate that the compensatory measures for guillemot in the southwest of England would provide quantifiable and qualitative benefits to the nearest SPAs and the coherence of the National Site Network.
- 3) Additional reasoning as to why compensatory measures are not specifically required for the seabird assemblage feature of the FFC SPA, in consultation with NE.
- 4) In accordance with the request from NE, should further data become available for other OWF, that this data is incorporated into the Applicant's assessments and the resulting predicted effects on all European sites and features should be updated for the benefit of the decision-making process.

27.4. PLANNING BALANCE AND THE CASE FOR DEVELOPMENT CONSENT

27.4.1. The recommendations of the ExA are based on its assessment of the evidence presented through the examination process including the application documents, the ES, the LIRs, Statements of Common Ground, Relevant and Written Representations, submissions during the Examination at the Hearings, answers to Written Questions and the site visits undertaken by the ExA both accompanied and unaccompanied. All of this evidence is reviewed in the individual Chapters of this Recommendation Report.

27.4.2. The ExA concludes that the Proposed Development would be in accordance with the overarching principle of the NPPF 2021 which seeks to support the transition to a low carbon future in a changing climate taking full account of flood risk and coastal change and supports renewable and low carbon energy and associated infrastructure. The ExA finds that there are no specific policies in the relevant Local Development Plans that indicate the Proposed Development should be refused, restricted, or mitigated further than has been provided for by the rDCO.

Considerations in SoS Decision-Making and the ExA's Planning Balance

ExA's approach to Planning Balance

27.4.3. The ExA considers that the difference in the quantum of energy generation and socio-economic benefits between Scenarios 1a and 1b and all other Development Scenarios must be taken into account in the assessment of the balance of adverse impact of the Proposed Development against its benefits, pursuant of s104(7) of

PA2008. As such, the ExA has drawn two planning balance conclusions: first, by weighting the benefits of the Proposed Development for all Development Scenarios except 1a and 1b, against the adverse impact of the Proposed Development, and second, by weighting the benefits of the reduced energy generation and socio-economic benefits of Scenarios 1a and 1b, against the adverse impact of the Proposed Development.

- 27.4.4. In drawing its planning balance conclusions, the ExA has first weighted the benefits of the Proposed Development, all Development Scenarios, where both SEP and DEP are built (all Development Scenarios except 1a and 1b), against the adverse impact of the Proposed Development, and this is reported in each individual Chapter.
- 27.4.5. Secondly, the ExA has weighted the benefits of the reduced energy generation, where either only SEP or only DEP is built (Development Scenarios 1a and 1b), against the adverse impact of the Proposed Development. The ExA has found this to be less straightforward. The ES has assessed the adverse effects of the worst case scenario which would building both SEP and DEP. If only SEP or only DEP are constructed, the adverse effects in most cases would be reduced, but this assessment is not before the ExA. The ExA finds that comparing the reduced benefits of building only SEP or only DEP against the full extent of the adverse impact of building both SEP and DEP, would not be a fair assessment.
- 27.4.6. As such, on the basis of the information before it and the assessment of worst-case available in the ES, the ExA has been able to afford a different weight in the two planning balances only in the case of socio-economic effects, where the benefits of the Proposed Development would be reduced if only SEP or only DEP were built. . In all other cases the ExA, has concluded with only one planning balance weight for all Development Scenarios.

ExA's Conclusion on Planning Balance

- 27.4.7. The established national need for renewable energy is a strong factor weighing in favour of making the Order. The ExA is mindful that there is also a presumption in favour of granting consent to applications for renewable energy NSIPs. The ExA affords substantial weight to the contribution the Proposed Development would make to the established need and target for renewable energy generation.
- 27.4.8. The ExA finds that there would also be beneficial socio-economic effects including the contribution the Proposed Development would make to the economy and in terms of additional employment. For the Development Scenarios where both SEP and DEP would be delivered (Scenarios 1c, 1d, 2, 3 and 4) such benefits are afforded substantial weight in favour of making the Order. For Scenarios 1a and 1b (SEP or DEP), the ExA considers that socio-economic benefits carry moderate weight in favour of making the Order.
- 27.4.9. Turning to adverse impacts from the Proposed Development, the following weightings are predicated on the inclusion of the ExA's recommendations in the rDCO: provision that would not allow the exceedance of maximum daily vehicle trips per link at R15; provision to restrict trenchless crossing works at night at R20; provision to secure PFG mitigation prior to the commencement of the Proposed Development at R34; and provision to secure an obstacle free zone as proposed by the MCA to increase sea room and improve navigational safety at R35 and Condition 25 of the dDMLs at Schedules 10, 11, 12 and 13. The implications of the SoS not agreeing with any of these provisions is discussed later in this Section.

- 27.4.10. The ExA is most concerned by the adverse effects of the Proposed Development on offshore ornithology, traffic and transport and land use and has identified that these carry, in each case, moderate weight against the making of the Order.
- 27.4.11. The ExA attributes minor weight against the making of the Order for the adverse effects of the Proposed Development in each of the following receiving environments: marine mammals; physical and coastal processes; subtidal and intertidal ecology, including fish and shellfish; navigation and shipping; civil and military aviation; commercial fisheries and fishing; oil, gas and other offshore infrastructure and activities; offshore construction effects; seascape and visual effects; noise and vibration, water quality and resources; and onshore construction effects.
- 27.4.12. The ExA is content that the effects of the Proposed Development in the following matters carry neutral weight in the planning balance: alternatives and grid connection; design; historic environment and cultural heritage - offshore and onshore; onshore habitats and ecology; and landscape and visual effects.
- 27.4.13. The ExA has carefully considered the overall balance of benefits and adverse impacts for all Development Scenarios. On the one hand there are the overall benefits of the Proposed Development, on grounds of meeting the established need for energy generation and the socio-economic benefits that would range between moderate to substantial in favour, depending on which Development Scenario is delivered.
- 27.4.14. On the other hand, the harms caused by the Proposed Development on grounds of offshore ornithology, traffic and transport and land use carry a moderate level of weight against the making of the Order. In addition, and as identified above, there are numerous impacts that attract minor weight against the making of the Order.
- 27.4.15. Overall, the ExA finds that the adverse impact of the Proposed Development do not outweigh its benefits. The ExA gives consideration to two further matters. First, the ExA takes into account that no IPs objected to the principle of renewable energy from OWF as proposed in this application. Furthermore, all LAs expressed support for the Proposed Development and energy development through these means. Second, the ExA takes into account that NPS EN1 at Paragraph 4.1.2, establishes a presumption in favour of granting consent to applications for energy NSIPs.
- 27.4.16. These further considerations lead the ExA to conclude that based on the provisions in the rDCO, the identified adverse impacts of the Proposed Development in all Development Scenarios, do not outweigh its benefits.

ExA's conclusion on Planning Balance should the SoS take a contrary view

- 27.4.17. If the SoS does not accept the ExA's suggested provision at R35 in the rDCO and Condition 25 of the dDMLs at Schedules 10, 11, 12 and 13, to impose MCA's required obstacle free zone west of the buoys in the Outer Dowsing Channel for navigational safety, the ExA finds with the MCA, and concludes that the risk to navigation and shipping from the Proposed Development would not be ALARP. Consequently, the Proposed Development would conflict with NPS EN3 requirement at Paragraph 2.6.165, which states that the SoS "*should not consent applications which pose unacceptable risks to navigational safety after all possible mitigation measures have been considered*". As such, pursuant of s104(2)(a) and s104(3), the ExA concludes that the Order in the form proposed by the Applicant, in particular at R35 in the dDCO, must not be made on grounds of non-compliance with NPS EN3.
- 27.4.18. If the SoS does not agree with the ExA's interpretation of NPS EN3 Paragraph 2.6.165 and corresponding conclusion, the ExA nonetheless considers the Planning

Balance conclusion would alter. If the obstacle free zone in the Outer Dowsing Channel is not imposed, the ExA would be of the view that the planning balance weight for navigational safety would be altered to substantial weight against the Proposed Development in all Development Scenarios, other than Scenario 1a, and that this would also lead the ExA to the view that consent should be withheld in accordance with s104(7) of PA2008.

- 27.4.19. If the SoS does not agree that restrictions suggested a R15 in the rDCO are necessary for trenchless crossing works at night-time, the ExA considers the effects of construction noise would be altered to moderate weight against the making of the Order for all Development Scenarios. Also, if the SoS does not impose R34 in the rDCO for a PFG mitigation plan, then onshore habitats and ecology matters would carry minor weight against the making of the Order for all Development Scenarios. The ExA considers that both these two matters alone or together would not alter the ExA's conclusion on the overall planning balances, and the adverse impacts of the Proposed Development would still not outweigh the benefits of the Proposed Development. Nonetheless, in order to reduce impacts as far as possible, the ExA recommends to the SoS that both of these provisions are included in the rDCO, should it be made.

HRA Matters

- 27.4.20. On account of HRA matters, relating to the lack of agreed compensatory measures related to sandwich terns and guillemots, the ExA finds that the HRA of the Proposed Development has failed and the ExA is unable to recommend that development consent should be granted at this time. This is because the overall package of compensatory measures, particularly for sandwich terns and guillemots, is not developed sufficiently to reassure the ExA that the duties under Regulations 64 and 68 of the Habitats Regulations would be met, nor that the adverse effects of the Proposed Development upon said species would be adequately compensated.

- 27.4.21. However, the ExA has found in its considerations in Chapter 26 of this Recommendation Report, that the SoS may seek to secure suitable compensatory measures for both sandwich terns and guillemots and subsequently find that the Habitats Regulations are adequately and effectively addressed. Even so, the ExA advises that further information may be required to enable the SoS to fulfil the duties of Competent Authority, namely:

- 1) more information regarding the design and detailing of the inland pool at Loch Ryan, including progress towards acquiring the land, is required to be undertaken in order to demonstrate a clear and secure route to consenting, implementation and long-term management;
- 2) more information to demonstrate that the compensatory measures for guillemot in the southwest of England would provide quantifiable and qualitative benefits to the nearest SPAs and the coherence of the National Site Network;
- 3) confirmation from NE on its position whether compensatory measures are adequate to maintain the FFC SPA seabird assemblage feature; accepting ExA's proposed amendments to R34 in the rDCO to secure a PFG mitigation strategy; and seeking views from the Applicant and NE on R13; and
- 4) in accordance with the request from NE, should further data become available for other OWF, that this data is incorporated into the Applicant's assessments and the resulting predicted effects on all European sites and features should be updated for the benefit of the decision-making process.

- 27.4.22. In addition to the above, the ExA recommends to the SoS that, in order for an AEoI to be ruled out for pink-footed geese (PFG), R34 is included in the rDCO as discussed in Chapter 21 of this Recommendation Report, to ensure an appropriate PFG

mitigation plan is secured. Without R34 in the rDCO securing an appropriate PFG mitigation plan, the ExA cannot conclude that an AEoI would not occur. Furthermore, in the absence of suitable compensatory measures to offset the impacts on PFG, the ExA must conclude that the HRA of the Proposed Development would have failed.

ExA's overall conclusion on the Case for Development Consent

27.4.23.

The ExA's Planning Balance conclusion is that the benefits of the Proposed Development as proposed in the rDCO, in all Development Scenarios, would outweigh the identified adverse impacts. Therefore, the Case for Development Consent has been made.

However, at the present time, given HRA related compensatory measures are not agreed, the ExA's overall recommendation is to withhold Development Consent, on HRA grounds.

28. COMPULSORY ACQUISITION AND RELATED MATTERS

28.1. INTRODUCTION

28.1.1. For reasons stated in Chapter 27 of this Recommendation Report, the Examining Authority (ExA) concludes consent cannot be given on the basis of the ExA's findings on the Habitats Regulations Assessment. The case for Compulsory Acquisition (CA) depends upon the public benefits flowing from the Proposed Development, which cannot be realised in the absence of development consent. It follows that, without a recommendation that consent be granted, the case for CA cannot be justified.

28.1.2. Nevertheless, the ExA is mindful of the fact that the Secretary of State (SoS) may conclude differently. This Chapter considers CA matters in the event that the SoS is minded to grant development consent. In that instance, the case for CA and Temporary Possession (TP) must be examined in accordance with the tests in the Planning Act 2008 (PA2008).

28.2. THE APPROACH TO EXAMINATION OF THE CA AND TP CASE

28.2.1. To set the scene for the Examination of the CA and TP case, the ExA has considered the legislative framework, and the Applicant's case for CA and TP, in the following order:

- 1) the legislative framework in PA2008, including the legislative requirements from the Applicant and the SoS's consideration in reaching a decision; and
- 2) the Applicant's strategic case for CA and TP powers, including the request for CA and TP powers in the application and the key documents where these are set out, and the purposes for which land is required.

28.2.2. Subsequently, the ExA has tested the Applicant's case for CA and TP in light of the following issues emerging during Examination that the ExA has examined, considered, and concluded on:

- 1) the proposed CA process for various development scenarios;
- 2) the individual cases raised by Affected Persons (AP) and/or their representatives;
- 3) matters relating to special category land: crown land, public open space and NT land;
- 4) the individual cases raised by SUs; and
- 5) provisions in the dDCO.

28.2.3. The ExA has subsequently presented a conclusion as to whether the Applicant's case for CA and TP is made against the legislative framework in PA2008.

28.3. LEGISLATIVE REQUIREMENTS

28.3.1. Sections (s) 122 to 135 of PA2008 and the amendments made by the Growth and Infrastructure Act 2013, set out the main provisions relating to the authorisation of the CA of land; these specify the conditions which must be satisfied if a development consent order is to authorise CA, restrict the provisions which may be made about compensation in an order, and set out additional requirements which apply in relation to certain special types of land and Crown land and to the circumstances where special parliamentary procedure can be triggered.

- 28.3.2. Guidance is also available in the publication: Guidance Related to Procedures for the Compulsory Acquisition of Land, September 2013 (former) Department for Communities and Local Government (DCLG) (CA guidance).

Tests in s122 and s123 of PA2008

- 28.3.3. The PA2008 provides in s122 that the purpose for which CA may be authorised is if the land is required for the development to which the development consent relates, or to facilitate or is incidental to that development, or is replacement land which is to be given in exchange for the order land under s131 or s132.
- 28.3.4. In accordance with s122(3) there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right.
- 28.3.5. In accordance with s123 of PA2008 one of three procedural conditions in subsections (2) to (4) must be met by the Proposed Development. The ExA can conclude from the outset that the condition in sub-section (2), that the application for the order must include a request for CA of the land to be authorised, is met.
- 28.3.6. The Applicant is required to meet a number of general considerations, in line with the CA Guidance and to satisfy the conditions in s122 and s123. To meet these conditions, the Applicant must demonstrate to the satisfaction of the SoS:
- 1) that there is appropriate provision for CA in the dDCO;
 - 2) that the land in question is needed for the development to which the consent relates, or is required to facilitate, or is incidental to, the development, or is replacement land given in exchange;
 - 3) that all reasonable alternatives to CA, including modifications to the scheme have been explored;
 - 4) that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, necessary and proportionate;
 - 5) that there is clarity of how the land which is proposed to be acquired is intended to be used;
 - 6) that the application is accompanied by a statement explaining how it will be funded, with information about the resource implications of both acquiring the land and implementing the project, and the availability of the funding is within the statutory period following the order being made;
 - 7) in accordance with s42 and s44 of PA2008, the Applicant has consulted those with interests in relevant land before an application is made and sought to acquire land by negotiation wherever practicable; and
 - 8) that there is a compelling case in the public interest for the land to be acquired compulsorily. The SoS should be satisfied that there is compelling evidence that the public benefits that would be derived from the CA will outweigh the private loss that would be suffered by those whose land is to be acquire, with regard given to the provisions of Article 1 of the First Protocol of the European Convention on Human Rights (ECHR) and, in the case of acquisition of a dwelling, Article 8 of the Convention.

Consultation with parties in accordance with s42 and s44 of PA2008

- 28.3.7. In accordance with s44 and s42, the Applicant is required to consult with Category 1, 2 and 3 persons. The ExA has concluded on s42 and s44 in light of the representations made by APs, SUs and other parties in the Examination.

Tests for SU's land in s127 and s138 of PA2008

- 28.3.8. The legislative framework places restrictions on the CA of land held by SU in s127 of PA2008. If a SU has made a representation that has not been withdrawn before the end of the Examination, then the SoS will need to be satisfied that the land can be purchased or replaced or new rights over that land can be created without serious detriment to the carrying on of the undertaking. Under the provisions of s138 of PA2008, the removal of SUs' apparatus can be authorised if the SoS is satisfied that it is necessary for the Proposed Development.
- 28.3.9. The Order limits includes CA of land interests currently held by several SUs. The ExA has concluded on this matter later in this Chapter.

Requirement for National Trust (NT) Land in s130 of PA2008

- 28.3.10. If the Applicant is seeking to CA land which is held inalienably by the NT, and the NT have an extant objection on the acquisition of that land, then an order granting development consent is subject to special parliamentary procedure.
- 28.3.11. The Order limits includes land held by the NT and so s130 is engaged. The ExA has concluded on this matter later in this Chapter.

Tests for Crown Land in s135 of PA2008

- 28.3.12. Interests in Crown land, unlike other land, cannot generally be compulsorily acquired. Therefore, where such land is required for a major infrastructure project, the land, or an interest in it held by or on behalf of the Crown, would need to be acquired through negotiation and bilateral agreement. S135 is of relevance, which provides that an order granting development consent may include provision authorising the CA of an interest in Crown land only if it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and the appropriate Crown Authority consents to the acquisition.
- 28.3.13. The Order limits includes Crown Land and so s135 is engaged. The ExA has concluded on this matter later in this Chapter.

28.4. THE APPLICANT'S STRATEGIC CASE FOR CA AND TP

- 28.4.1. The Applicant strategic case for CA and TP is set out in the Statement of Reasons (SoR) [REP7-014] and the Environmental Statement (ES) [APP-090], with reference to Land Plans [REP7-002] and Works Plans [REP8-003]. The Applicant states that the starting point for justification is that the Proposed Development is a nationally significant infrastructure project (NSIP) that would generate renewable energy, the need for which is established within the National Policy Statements (NPSs). The Applicant laid emphasis on the need for the Proposed Development [APP-285] [REP7-014] to meet energy security and carbon reduction objectives, to urgently increase electricity generation and replace the electricity generating capacity United Kingdom's older fossil fuel and nuclear plants that are closing, and to maximise economic opportunities through the energy sector in the UK which plays a central role in boosting the economy and providing new jobs and skills.
- 28.4.2. The Applicant also presented its case at Compulsory Acquisition Hearing (CAH) 1 [EV-066] [EV-070] [REP3-113] where the Applicant stated that:
- 1) the Order Land comprises only land which would be required for the Proposed Development or to facilitate that development;

- 2) the Statement of Reasons (SoR) [REP7-014, Section 11.2], read alongside the Land Plans, the Works Plans, the ES, and the Book of Reference (BoR), describes how the land would be used;
- 3) there was flexibility needed because the application was for two projects, and due to the various proposed Development Scenarios;
- 4) it has a commercial incentive to take the least amount of land possible because compensation would be payable where land would be subject to CA;
- 5) during design development at the pre-application stage, impacts on affected landowners was considered as part of the site selection process;
- 6) it has sought to incorporate suggestions from landowners relating to boundary proposals, wherever feasible;
- 7) that by engaging with the Land Interest Group (LIG) representing 70 landowners out of 81, it has made progress to reach agreement with many landowners;
- 8) with respect to Human Rights, parties have the right to a fair trial through the Examination in line for Article 6, and in light of the need for the Proposed Development established in the NPS, the case for public interest would outweigh the private loss to those affected by CA; and
- 9) while it had sought not to exclude any parties, in particular groups with protected characteristics from engaging with the Applicant through the pre-application and application process, the Applicant did not believe that the provisions in the Equality Act 2010 applies to the Applicant in the context of this application.

The Request for CA And TP Powers in the Application

28.4.3. The Applicant seeks powers for TP only, for TP with acquisition of permanent rights, and for TP with Freehold Acquisition. The requests powers of CA and TP for the Proposed Development are described in the final submitted version of the following documents:

- Schedule 1 of the dDCO [REP8-005];
- SoR [REP7-014, Section 11.2];
- BoR [REP8-014];
- Land Plans [REP7-002];
- Crown Land Plans [REP3-003]; and
- Special Category Land Plans [REP3-004].

28.4.4. Other relevant documents are the dDCO [REP8-005], Explanatory Memorandum (EM) [REP8-011], Works Plans [REP8-003], and Access to Works Plan [REP5-002].

28.4.5. The Applicant submitted two change requests which have been reported in Chapter 4 of this Recommendation Report. The second change request proposed changes to the Order limits. Documents that were edited due to the second change request were submitted into Examination [AS-045 to AS-065], and these included Land Plans, Crown Land Plans, BoR, Addendum to the Funding Statement, SoR, along with relevant environmental information and supporting statements.

CA for different Development Scenarios

28.4.6. The application is for Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP). The Applicant states that Scira Extension Limited (SEL) and Dudgeon Extension Limited (DEL) are the two companies named as undertakers in the dDCO who would exercise the powers of CA.

28.4.7. While SEP and DEP have different commercial ownerships, SEL and DEL respectively, each is an NSIP in its own right. The Applicant has submitted a single application for a single Examination, ultimately with the aim of securing consent for a

single DCO. The implications of a joint application and the proposed various Development Scenarios have been reported in Chapter 4 of this Recommendation Report. The process of exercising CA powers in various Development Scenarios is reported later in this Chapter.

28.4.8. The Applicant has proposed the following Development Scenarios [APP-314]:

- 1) Scenario 1 has four different options:
 - a. Scenario 1(i) – means construction of SEP only.
 - b. Scenario 1 (ii) – means the construction of DEP only.
 - c. Scenario 1 (iii) – means sequential construction of SEP then DEP or vice versa as two separate projects.
 - d. Scenario 1 (iv) – means concurrent construction of SEP and DEP as two separate projects.
- 2) Scenario 2 – means the two projects are constructed sequentially and whichever project is constructed first will install the ducts for the second project.
- 3) Scenario 3 – means either SEL or DEL constructs on behalf of both itself and the other project an integrated onshore substation and connection to National Grid’s Norwich Main Substation. All other onshore and offshore works are constructed either concurrently or sequentially.
- 4) Scenario 4 – means either SEL or DEL constructs on behalf of both itself and the other project both the onshore and offshore integrated works including the integrated offshore substation, the integrated onshore substation, the onshore and offshore cables. All other onshore and offshore works are constructed either concurrently or sequentially.

28.4.9. The Applicant explains that the decision on the appropriate Development Scenario would be made post consent. The Examination of this matter has been reported in Chapter 4 of this Recommendation Report.

28.4.10. The Applicant also states that the precise location of cables would be determined post-consent. The proposed onshore substation area, the Applicant explains would be large enough to accommodate construction of either two separate onshore substations, as could be required in Development Scenarios 1c, 1d, and 2, or one integrated substation to serve both projects, as could be required in Development Scenarios 3 and 4.

28.4.11. The Applicant provides further details about the implications of the choice of the Development Scenario on the use of CA powers [REP7-014, Table 11-2]. The Applicant explains that the land subject to CA powers (the Order Land) for both SEP and DEP is the same. The dDCO would grant consent for all of the Development Scenarios. Both SEL and DEL would therefore have CA powers for the full area within the Order limits for the onshore substation and related works. Therefore, when one undertaker is exercising CA powers, the consent of the other undertaker is necessary to ensure co-ordination between the two projects. This is to ensure that each project will be able to secure appropriate land and rights for construction, operation, and maintenance of its project assets.

The Purposes for which Land is Required

28.4.12. The Applicant has identified the purpose for which each plot of land would be required would include: Substation, Landfall, Onshore cable corridor, Access rights and Compounds [REP7-014, Section 11.2]. The Applicant explains that plots identified in Part 1 of the BoR that would be subject to freehold acquisition pursuant to Article 18 are coloured pink on the Land Plans, and those that would be subject to the acquisition of permanent rights, including restrictive covenants pursuant to Article

20 and Schedule 7 are coloured blue. Both types of land would also be subject to powers of TP by virtue of Article 26 [REP8-014, Section 2].

28.4.13. The main powers relevant to CA are in the following Articles:

- Article 18 (compulsory acquisition of land);
- Article 20 (compulsory acquisition of rights);
- Article 21 (private rights over land);
- Article 23 (acquisition of subsoil or airspace only);
- Article 25 (rights under or over streets);
- Article 26 (temporary use of land for carrying out the authorised project); and
- Article 27 (temporary use of land for maintaining the authorised project).

28.4.14. The novel drafting in the dDCO that accommodates the optionality in relation to the Development Scenarios are specified here.

- 1) Articles 18 and 20 of the dDCO grant SEL and DEL powers to CA any land or rights in land required for or incidental to their respective projects, SEP or DEP and the integrated works. Article 18 also provides that neither SEL nor DEL can exercise CA powers to acquire land without obtaining the consent of the other project.
- 2) The definition of "*undertaker*" includes both SEL and DEL and describes their different roles and liability for compensation claims in relation to SEP, DEP and any integrated works.
- 3) Requirement (R) 9 (scenarios and phases of authorised development) provides that SEL and DEL must give notice to the relevant planning authority setting out which scenario would be implemented before any part of the onshore works commence. and for each project to obtain approval of a written scheme setting out the phases of construction of the onshore works it will undertake in the chosen construction scenario.
- 4) Condition 4 of draft Deemed Marine Licenses (dDML) 1 and 2, Condition 3 of dDMLs 3 and 4 contains an equivalent condition requiring notification to and approval from the Marine Management Organisation (MMO).
- 5) R33 (onshore collaboration) requires SEL and DEL, in the event of Development Scenario 1c, 1d or 2, to share plans and documents with and seek comments from each other before submitting them for approval under the requirements.
- 6) The numbered works in Schedule 1 of the dDCO have been separated out between the two NSIPs: the offshore and onshore works for SEP are listed first as 'A' works, followed by the offshore and onshore works for DEP as 'B' works, and then the integrated works as 'C' works which are relevant to Development Scenarios 3 and 4 as set out above.

28.5. THE EXAMINATION OF THE CASE FOR CA AND TP

28.5.1. CA and TP were also identified as principal issues in the Rule 6 letter [PD-006, Annex C], and this related to matters concerning the requirement for the powers sought by the Applicant, and whether a compelling case in the public interest has been established, the need for the amount of land proposed to be subject to CA and TP, alternatives in relation to individual plots, and effects on SU land and apparatus, including the approach to Protective Provisions (PP).

28.5.2. The ExA examined the case for CA through the following Written Questions and Hearings:

- ExA's first Written Questions (WQ1) [PD-010];
- CAH1, including relevant matters in the dDCO [EV-031];
- ExA'S second Written Questions (WQ2) [PD-012];

- ExA'S third Written Questions (WQ3) [PD-017];
- CAH2, including relevant matters in the dDCO [EV-093]; and
- ExA'S fourth Written Questions (WQ2) [PD-021].

28.5.3. Additionally, the ExA also asked the Applicant to provide update of negotiations with parties through a Compulsory Acquisition Schedule (CAS) [REP1-040] [REP3-075] [REP5-041] [REP8-027], SU Position Statement [REP1-053] [REP3-083] [REP5-037] [REP7-049] [REP8-036], and Open Space Agreements Updates [REP1-054] [REP3-085] [REP8-063 to REP8-065]. Through responses to written questions, the ExA sought updates on progress with Crown Consent regularly through the Examination.

28.5.4. CA matters arising due to the second change request were specifically explored at CAH1 and through ExA's letter issued under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (Rule 17 letter) [PD-014].

28.5.5. The Applicant's case for CA and TP has been tested in light of the following issues emerging during Examination that the ExA has examined, considered, and concluded on:

- 1) the proposed CA process for various development scenarios;
- 2) the individual cases raised by Affected Persons (AP) and/or their representatives;
- 3) matters relating to special category land: crown land, public open space and NT land;
- 4) the individual cases raised by SUs; and
- 5) provisions in the dDCO.

28.5.6. The ExA has reported on these matters and presented its reasoning. Subsequently, and in light of its reasoning on these matters, the ExA has arrived at an overarching conclusion if the Applicant's case for CA and TP is made against the legislative framework in PA2008: s122, s123, s42, s44, s127, s138, s130 and s135.

28.6. THE PROPOSED CA PROCESS FOR VARIOUS DEVELOPMENT SCENARIOS

28.6.1. The Applicant's case about the implications of the choice of the Development Scenario on the use of CA powers is in the SoR [APP-028, Table 11-2], which was updated throughout the Examination [REP7-014, Table 11-2]. The Applicant explained that the land subject to CA powers (the Order Land) for both SEP and DEP would be the same. And the dDCO, if consented, would grant consent for all the Development Scenarios.

28.6.2. Both SEL and DEL would therefore have CA powers for the full area within the Order limits for the onshore substation and related works. When one undertaker would be exercising CA powers, the consent of the other undertaker would be necessary to ensure co-ordination between the two projects. This was to ensure that each project would be able to secure appropriate land and rights for construction, operation, and maintenance of its project assets.

28.6.3. Articles 18 and 20 of the dDCO grant powers to both undertakers, SEL and DEL, to CA land interests for their respective projects and for integrated works, depending on which Development Scenario would be chosen for delivery. The definition of "*undertaker*" includes both SEL and DEL and describes their different roles and liability for compensation claims in relation to SEP, DEP and any integrated works.

28.6.4. The ExA sought clarification if Article 18(1) and 18(2) should specify the specific Development Scenarios when consent from the other undertaker would be needed. The ExA also asked if the land required for Development Scenario where only SEP or

DEP is built (1a and 1b) would be the entire extent of the Order limits. If so, the ExA sought clarification on the wording “*so much of the Order land as is required*” and asked if the land required for only SEP or DEP might be different and lesser than the entire extent of the Order limits [PD-010, Q1.11.3.7].

- 28.6.5. The Applicant stated that the intention of the drafting was that each undertaker must obtain consent from the other in all scenarios. The Applicant further explained that whilst powers of CA were being sought over the entire Order limits for all Development Scenarios including 1a and 1b, the extent of the land and rights that would be actually acquired would vary depending on which Development Scenario was being taken forwards as explained in the SoR. The Applicant amended the EM [REP1-006] to cross-refer to the SoR [REP1-037, Q1.11.3.7].
- 28.6.6. ExA asked the Applicant to demonstrate how much and what part of the land would be required for each Development Scenario. The ExA specifically asked if the case for CA was made for Development Scenarios 1a and 1b, where either SEP or DEP do not proceed to construction and in that regard asked the Applicant to demarcate on land plans the land requirement for Scenario 1a and 1b. The ExA asked for the explanation with reference to the SoR [APP-028, Section 11.2.3], which states that the width of the onshore cable corridor could vary between 45 Meters (m) if only one project were built, and 60-100m for the joint onshore corridor [EV-066] [EV-070] [PD-012, Q2.8.4.1].
- 28.6.7. The Applicant’s position was that the case for CA was made out for both projects within the overall cable corridor. The Applicant explained that it was striking a balance between providing certainty and retaining flexibility for the Proposed Development. The Applicant confirmed that compensation would be payable where CA was used, which means there would be a commercial incentive to take the least amount of land possible. Additionally, the Applicant said that the ES and the SoR confirm the widths of the cable corridor in the different Development Scenarios. The Applicant said that it would not be possible to demarcate on land plans the Order limits for Development Scenarios 1a and 1b because the final route alignment for the cable route would be subject to micro siting during detailed design [EV-066] [EV-070] [REP3-113] [REP3-101, Q2.8.4.1].
- 28.6.8. However, the Applicant acknowledged the concerns expressed by the ExA in relation to Development Scenarios 1a and 1b and sought to give reassurance and more certainty that no more land than would be necessary was secured in the dDCO if it is constructed in isolation. Subsequently, the Applicant added sub-paragraph (9) to R10 of the dDCO, securing the maximum width of the onshore cable corridor of 45m in the event of Development Scenarios 1a and 1b, except in the case of the cable corridor that passes through the Food Enterprise Park, which has been discussed in Chapter 4 of this Recommendation Report.

ExA’s Reasoning

- 28.6.9. Notwithstanding the flexibility sought through the various Development Scenarios, which the ExA has concluded on in Chapter 4 of this Recommendation Report, the ExA finds that the Applicant process for exercising CA in each Development Scenario is clearly laid out in the SoR REP7-014, Table 11-2], and secured through Article 18.
- 28.6.10. The ExA has already accepted the Applicant’s case for flexibility sought to accommodate all Development Scenarios in one Application in Chapter 4 of this Recommendation Report. It follows, the ExA must also accept that the need for flexibility in the case of CA to enable the delivery of any of the Development Scenarios proposed within the Order Land.

- 28.6.11. Given there are, in effect, seven different Development Scenarios (1a, 1b, 1c, 1d, 2, 3, and 4), the ExA accepts that the Order land would need to be flexible enough to accommodate all seven Development Scenarios. However, the ExA was concerned that the case for CA was not made if Development Scenarios 1a and 1b were ultimately delivered, given the land required for the cable corridor of a single project was significantly less than the Order land. In response to the ExA's concerns, the Applicant's proposed provision in R10(9) is reasonable. Even though the Order land remains as proposed, R10(9) secures that the cable corridor for Development Scenario 1a and 1b would not exceed 45m.
- 28.6.12. Consequently, the ExA finds the Applicant's approach to exercising CA powers to cover all proposed Development Scenarios is sound. This conclusion is taken into consideration, in the ExA's overall conclusion on the Applicant's case for CA is presented at the end of this Chapter.

28.7. INDIVIDUAL CASES

- 28.7.1. The location of plots for CA and TP can be found in the Land Plans [REP7-002]. Also of relevance is the SoR [REP7-014, Section 11.2]. The Applicant's CAS [REP8-027] details discussions that are ongoing with all Affected Persons (AP) who have an interest in land within the Order limits. In line with the format suggested by the ExA, the Applicant has categorised these APs depending on the current status of negotiations:
- Option Agreement signed;
 - Heads of Terms agreed, Option Agreement in negotiation;
 - No objection and Heads of Terms negotiations ongoing;
 - No objection and Heads of Terms negotiations not commenced;
 - No objection but Heads of Terms negotiations unsuccessful;
 - Objection and agreement unlikely before close of Examination; and
 - No Land Interest response so far to correspondence from the Applicant.
- 28.7.2. This Section does not report on SU's objection to the CA of their land, and the outstanding objections from the NT which is reported later in this Chapter.
- 28.7.3. Several Relevant Representations (RR) were received at the start of the Examination from APs. Some of the RRs were followed by oral representations at CAH1 [EV-068] [EV-072] and CAH 2 [EV-104] [EV-106] and Written Representations (WR) from: Priory Holdings, Clive Hay-Smith and Paul Middleton [REP1-159] [REP1-171 to REP1-172] [REP1-183], Chris and Susie Tansley regarding Weybourne Forest Lodges [REP1-166 to REP1-167], John Barnard [REP1-168 to REP1-169], Keith Nichols [REP1-170] [REP1-182], representation on behalf of various landowners [REP1-185] and National Farmers Union (NFU) and LIG [REP1-122 to REP1-124] [REP5-083] [REP7-113].
- 28.7.4. The representation in the Examination did not express an objection to the CA of their land interest. However, several APs raised concerns regarding issues such as:
- Too much flexibility in the application and insufficient detail (reported in Chapter 4 of this Recommendation Report);
 - Concerns about access to property (reported in Chapter 18, 20 and 25 of this Recommendation Report);
 - alternatives to the route to the landfall (reported in Chapter 5 of this Recommendation Report);
 - alternatives to the cable route (reported in Chapter 5 of this Recommendation Report);

- selection of site compound (reported in Chapter 5 of this Recommendation Report);
- traffic effects (reported in Chapter 18 of this Recommendation Report);
- effects on mental health of residents (reported in Chapter 25 of this Recommendation Report);
- mitigation to damage to soils (reported in Chapter 20 of this Recommendation Report);
- mitigation to impact to landowners and businesses (reported in Chapter 25 of this Recommendation Report);
- dust and air quality effects (reported in Chapter 24 of this Recommendation Report);
- noise and vibration (reported in Chapter 19 of this Recommendation Report);
- visual impact on conservation area (reported in Chapter 16 of this Recommendation Report);
- impact on future development opportunity (reported in Chapter 25 of this Recommendation Report);
- location and detail of link boxes (reported in Chapter 20 of this Recommendation Report);
- limiting the CA of rights to 99 years rather than in perpetuity (reported later in this Chapter);
- wide ranging rights in Article 16 which would allow the undertaker to enter land for survey (reported later in this Chapter); and
- notice period in Article 26 (reported later in this Chapter).

28.7.5. The Applicant has responded to these matters at the start of the Examination [REP1-033] [REP1-034] [REP2-017], in various other submissions as the Examination pursued, and in response to Written Questions and requests for further information from the ExA on each specific area of concern. The ExA has reported and concluded on these matters in the various Chapters of this Recommendation Report as indicated above.

Additional concerns raised by Priory Holdings, Clive Hay-Smith and Paul Middleton relating to blight and reimbursement of professional fees

28.7.6. While Priory Holdings, Clive Hay-Smith and Paul Middleton raise a number of concerns, most of which have been reported in various Chapters in the Recommendation Report. In addition, concern was raised regarding the blight of uncertainty around the timing and long-term impact of the Proposed Development which has been reported in this Chapter as it related specifically to the effect of the proposed CA of their land and their operations.

28.7.7. The APs stated that the blight of uncertainty around the timing and long-term impact of the Proposed Development would impact their ability to undertake management and succession planning and diversification including the sale or tenancy of their respective farming enterprises [REP1-172] [REP4-056]. The ExA also asked the Applicant if a delay in construction programme could lead to blight for affected landowners [PD-012, Q2.6.2.2, d].

28.7.8. The Applicant said that Article 19 in the dDCO restricts the ability of the Applicant to exercise CA powers after the end of the period of seven years beginning with the day on which the Order is made. Any delay to the construction programme would not affect this provision. Once the CA powers have been exercised, the affected parties' right to claim compensation effectively crystallises and, even if there were then a delay to the projects, this would not affect the affected parties' rights to claim compensation. The Applicant explained that Blight is only applicable in advance of CA powers being exercised [REP3-101, Q2.6.2.2, d].

- 28.7.9. Priory Holdings, Clive Hay-Smith and Paul Middleton were not satisfied with the response and said that the seven years restriction in the dDCO is the deadline for service of a Notice to Treat, which have a duration of up to a further three years, The APs added that in the sequential Development Scenario, the Applicant may be granted consent to complete one project, reinstate land subject to TP, and then return later to complete the second project. In the APs assessment, landowners and business would be blighted by the associated uncertainty in such a Development Scenario [REP4-056]. The APs further added that the delays could lead to uncertainty with the payment of compensation. Related to compensation, the APs also stated that they have incurred significant professional costs which the Applicant has declined to re-imburse in full [REP5-098] [REP6-031] [REP7-130] [EV-104] [EV-106]. The ExA further pursued the matters relating to the Notice to Treat and the sequential Development Scenario [PD-017, Q3.8.2.2].
- 28.7.10. The Applicant responded that an APs right to claim compensation arises when the Notice to Treat is served and the notice period of three years is irrelevant in that regard. As such, a blight claim cannot be made once a notice to treat has been served. The Applicant also detailed that the maximum period of onshore construction works in a sequential Development Scenario is anticipated to be six years. APs would know the CA requirement before the start of the first project, and any additional land requirement before the start of the second project. The latest point at which the AP would have certainty over the land required for the second project is expected to be within six years from the start of construction of the first project [REP6-013, Q3.8.2.2]. With regard to professional fees the Applicant confirmed that there is no legal requirement to cover the costs in relation to an objection made, including professional fees. Legal obligations to pay professional fees only arise at the point CA powers are exercised. The Applicant felt that it had already gone above what is legally required by paying reasonable land agent fees on a voluntary basis both for landowners and tenants [REP8-075].
- 28.7.11. The matter remained unresolved at the close of the Examination.

ExA's Reasoning

- 28.7.12. The ExA agrees with the Applicant's presentation of information regarding plot numbers and the types of rights sought relevant to each case, as summarised in the CAS [REP8-027] and the BoR [REP8-014].
- 28.7.13. With the account provide in the CAS, and the individual interaction evidenced through the course of the Examination, the ExA is satisfied that the Applicant has provided evidence of ongoing dialogue between the parties to reach a negotiated agreement.
- 28.7.14. Based on the information presented in the CAS, the ExA considers that significant progress has been made agreeing Heads of Terms (HoT) through negotiation with APs, including the APs that have made representations to this Examination. HoTs are not legally binding, and while the ExA cannot rely on them to conclude on whether or not there is an objection to the CA powers sought, the ExA is able to rely on the fact the representations made in the Examination did not express an objection to the CA of their interests in the Order Land.
- 28.7.15. The ExA must take into account the concerns raised by all APs and is satisfied that the issues have been thoroughly examined. Based on the conclusions drawn in other Chapters in this Recommendation Report, the ExA can conclude that the identified adverse effects would be necessary to deliver the Proposed Development and would be mitigated to any possible extent.

- 28.7.16. On matters relating to blight, the ExA finds that the Applicant's explanation that there is enough certainty in Article 19 of the dDCO, and that the loss of land would be compensated for APs, is sound.
- 28.7.17. In accordance with s106(1)(c) of the PA2008 matters of compensation are not for consideration by the ExA, as such a view on that matter is not offered here.
- 28.7.18. This conclusion does not include SU's objection to the CA of their land, and the outstanding objections from the NT which is reported later in this Chapter.
- 28.7.19. The ExA has taken its reasoning and conclusions on individual objections into account when arriving at an overarching conclusion presented at the end of this Chapter, if the Applicant's case for CA and TP is made against the legislative framework in PA2008.

28.8. SPECIAL CATEGORY LAND

Crown Land

- 28.8.1. The Order limits includes Crown Land; the BoR [REP8-014, Part 4], and Crown Land Plans [REP3-003] identifies plots in which there is a Crown interest that would be affected by the Proposed Development. Article 37 of the dDCO [REP8-005], reflects s135 of PA2008, setting out the Crown Rights and that nothing in the dDCO authorises the undertaker to interfere with any land or rights of the Crown Estate (tCE), without the consent in writing of the owner of any Crown Interest in the land which is included in the Order limits.
- 28.8.2. The ExA sought updates from the Applicant on progress with securing Crown consent throughout the Examination [PD-010, Q1.8.3.3] [EV-031, 10] [PD-012, Q2.8.3.3] [PD-017, Q3.8.3.3] [EV-093, 6] [PD-021, Q4.8.3.3]. At close of Examination the update from the various owners of Crown Interest and the Applicant, is set out here.
- 28.8.3. The Crown Commissioners, owner for plots 01-001, 01-002, 01-003 and 01-004, stated that they had reached a separate agreement with the Applicant which provides the Crown Commissioners with sufficient assurance as to the way in which CA powers contained in Articles 20 and 23 may be exercised in respect of third party interests in Crown land forming part of tCE. The Commissioners confirmed their consent to the CA, subject to the inclusion of Article 37 in the dDCO, as is currently drafted [REP8-005] and the Crown Commissioners being consulted further if any relevant variation to the dDCO is proposed [REP8-118].
- 28.8.4. The Secretary of State for Defence (SoS Defence) is the owner of plots 01-005, 01-006, 01-007, 01-008, 01-011, 01-012, 01-013, 01-014, 01-015, 01-016, 01-017, 01-018, 01-019, 01-020, 01-021, 01-022, 01-023, 01-024, 01-026, 01-027, 01-028, 01-029, 01-030, 01-031, 01-032, 01-033, 01-034, 01-035, 01-037, 16-014, 16-015, 16-017, 35-009, 35-010 and 35-011. The Applicant confirmed that no matters remained outstanding, and that consent would be forthcoming [REP7-065]. However, no consent was received from SoS Defence before the close of the Examination.
- 28.8.5. The Forestry Commission and the Secretary of State for Environment Food and Rural Affairs (SoS EFRA) are the owners of plots 03-009, 03-010, 03-011, 04-001, 04-002, 04-003, 04-004, 04-011, 04-013, 10-009 and 10-010. The Applicant submitted a letter dated 18 November 2022 [REP1-039, Appendix B.5], which confirmed that the SoS EFRA grants its consent to the inclusion of CA rights in the dDCO for the Proposed Development. While no communication was received into Examination directly from

the Forestry Commission or SoS EFRA, the Applicant confirmed the reaching of this agreement at the close of the Examination [REP8-062].

- 28.8.6. The Secretary of State for Transport (SoS Transport) is the owner of plots 28-002, 28-004, 28-005, 28-006, 28-007, 28-008, 28-009, 28-010 and 35-002. The updates from the Applicant stated that it had received communication which delegated the s135 consent to National Highways (NH) [EV-068] [EV-072] [REP3-101, Q2.8.3.3]. The Applicant also explained that it had been chasing NH on this matter, but had not received any updates [EV-104] [EV-106] [REP7-065, Q4.8.3.3]. The ExA did not hear from SoS Transport or NH directly on this matter through the Examination.

ExAs Reasoning

- 28.8.7. The ExA is satisfied with the evidence in Examination confirming Crown Consent from The Crown Commissioners and The Forestry Commission.
- 28.8.8. However, Crown consent has been given for the CA of Crown Land owned by SoS Defence and SoS Transport. The ExA has considered if the Order may be operative without the plots of land which are Crown owned, and if a recommendation could be made for consent subject to withholding consent for certain plots. However, the Crown plots for which consent has not yet been received are located on the onshore cable corridor route, access routes to construction, and landfall at Weybourne. As such, the ExA finds that the Proposed Development would not be deliverable to the extent assessed in the ES, without the Crown plots.
- 28.8.9. In the absence of requisite consents from the relevant Crown Authorities at SoS Defence and SoS Transport, the ExA concludes that the Order cannot authorise the CA of those plots of land and/ or interests which are Crown land because s135(2) has not been met.
- 28.8.10. If the SoS is minded to grant consent for the Proposed Development, the ExA recommends that prior to the issuing their decision, the SoS would need to obtain consents from the relevant Crown Authorities at SoS Defence and SoS Transport, for the Crown land consistent with the BoR [REP8-014, Part 4] and in accordance with s135(1) of the PA2008.

Public Open Space

- 28.8.11. The Applicant states that the Order Land includes open space which is shown on the Special Category Land Plan [REP3-004]. This includes plots at the beach and foreshore together with a public right of way, plots 01-001 through to 01-013, along with two crossings of the Marriotts Way right of way, plots 17-001 and 23-001.
- 28.8.12. The Applicant has explained that although there will be temporary interference with the use of the open space land during the construction period and occasional future maintenance activities, associated with the onshore cable corridor, access to the remainder of the open space in each location will be available and any interference would be temporary in nature [REP7-014, Section 12.4].
- 28.8.13. More details were provided at CAH1, when the Applicant explained that the works at Weybourne Beach included bringing the cables from offshore to onshore and estimated that the beach would need to close for one day per circuit, or two days in total with a gap in between. Also, for Marriotts Way, the Applicant confirmed that they would be working underneath this path and so the Applicant does not propose that Marriotts Way would be closed [EV-067] [EV-071].

- 28.8.14. On this basis the Applicant considers that the open space land affected by CA rights sought in the dDCO would be no less advantageous to the public than it was before, and therefore the test set out in s132(3) of the PA2008 is satisfied. As such, the Applicant also confirmed that it was not proposing that any replacement land is included within the Order [REP8-062]. During the Examination no party sought to disagree with the Applicant's case on its approach and conclusions on this matter.
- 28.8.15. The ExA sought updates on negotiations with APs throughout the Examination, which was provided through responses to written questions, at CAH1 [EV-067] [EV-071] and CAH2 [EV-104] [EV-106], and through the Open Space Agreements Updates [REP1-054] [REP3-085] [REP5-039] [REP8-063 to REP8-065].
- 28.8.16. The plots that are public open space and the APs that are affected by the Proposed Development are identified, as well as the Applicant has provided an update for all negotiations. The Applicant states that HoT have been agreed with Mr Michael Savory, but formal agreement was not submitted to Examination. Plots 01-001, 01-002, 01-003, 01-004, are Crown Land and also public open space. In light of receiving Crown consent, the Applicant states that the leasehold interest for these plots currently held by North Norfolk District Council (NNDC) would be included in the agreement sought with the Crown Authority, in this case the Crown Commissioners [REP5-039].
- 28.8.17. Additionally, the Applicant has submitted joint statements with Norfolk County Council (NCC) [REP8-063], Broadland District Council (BDC) [REP8-064], and Ms Louise Anne Savory [REP8-065], which state that HoT have been agreed. All parties confirm that while voluntary agreement would not be agreed prior to the close of Examination, it could be possible by 1 December 2023.
- 28.8.18. The Applicant identified plots 01-009 and 01-010, were unregistered and the Applicant was unable to confirm ownership [REP5-039]. The ExA asked if the plots would be bona vacantia land, and the Applicant confirmed that that may not be the case, and land could have an unregistered owner. Either way the Applicant confirmed that if the Applicant could not obtain evidence of ownership it would rely on CA rights to acquire the necessary rights to deliver the Proposed Development [REP3-101, Q2.8.3.1].
- 28.8.19. While the Applicant's final update [REP5-039] states that it is hopeful that the necessary land rights can be acquired by voluntary agreements with various parties, no voluntary agreements or evidence thereof were in Examination before close.

ExAs Reasoning

- 28.8.20. None of the APs raised any concerns about negotiations or disagreed with the Applicant's assessment of effects and its conclusion with regard to the test set out in s132(3) of the PA2008. As such, the ExA is not unduly concerned about the lack of voluntary agreements in Examination. Regarding the registered owners of plots 01-009 and 01-010, the ExA is satisfied with the Applicant's approach to continue to seek out the owners and failing that to use CA powers to acquire the land.
- 28.8.21. On the basis of the explanation from the Applicant regarding the extent of disturbance on open space land at Weybourne Beach and Marriotts Way and, given that no objections were received from any of the identified APs, the ExA is satisfied that the effects of the Proposed Development on public open space would be temporary and short term only. The ExA therefore concludes that the test set out in s132(3) of the PA2008 is satisfied. Consequently, the ExA also concludes in agreement with the Applicant's approach to not include any replacement land within the Order limits.

National Trust Land

- 28.8.22. The NT land included in the Order limits is shown in the BoR [REP8-014, Part 5] and on the Special Category Land Plan [REP3-004]. The land in question is across plots 03-009, 03- 011, 04-001, and comprises woodland known as Weybourne Woods, located east of Sandy Hill Lane. The Applicant has proposed that the onshore cable corridor passes would pass through this land, and the cables would be laid by Horizontal Directional Drilling (HDD) to minimise impact on this land [REP7-014, Section 12.3].
- 28.8.23. The NT did not object to the principle of the Proposed Development but had some outstanding concerns and therefore objected to the dDCO and the CA of land held inalienably by the NT. The main outstanding concerns was the impact of the Proposed Development on the little understood archaeology of the area [RR-061] [REP1-134]. These specific matters relating to the effects on archaeology are reported in Chapter 16 of this Recommendation Report.
- 28.8.24. The ExA sought updates on negotiations relating to CA of the land held inalienably by the NT throughout the Examination [PD-010, Q1.8.3.2] [EV-031, 8] [PD-012, Q2.8.3.2] [PD-017, Q3.8.3.2] [EV-093, 6] [PD-021, Q4.8.3.2]. The NT stated that it was satisfied with developments in negotiations with the Applicant and the updates to the Outline Written Scheme of Investigation (Onshore) [REP1-029]. Later, the NT also confirmed that it did not have any outstanding concerns relating to onshore archaeology [REP3-140]. However, with regards to the CA of the land, the NT said it was working with the Applicant to secure a signed Option Agreement and Deed of Easement for the requisite cables and for access over and under the NT land. The NT confirmed that while the majority of terms had been agreed, there was still disagreement over the need for the easement to be in perpetuity [REP3-141, Q2.8.3.2] [REP5-088, Q3.8.3.2]. At the close of the Examination the NT confirmed that it had reached an agreement in principle over the term of the easement and that the details were being worked through. However, given the agreements are not yet signed, the NT was unable to remove its objection [REP7-107, Q4.8.3.2].
- 28.8.25. While the Applicant continued to engage with the NT and respond to its queries outside the Examination, the Applicant did not provide into Examination the responses given to the NT relating to the terms of the agreement, whether in perpetuity or otherwise [REP4-032, 18]. The Applicant said that it would continue to engage with the NT post Examination and would seek to sign an agreement, in order for the NT to confirm removal of its objection directly to the SoS [REP8-068] [REP8-062].

ExAs Reasoning

- 28.8.26. In coming to its view on the NT land held inalienably, the ExA has considered the statutory position set out in s130 which provides that where land is held inalienably by the NT it would be subject to special parliamentary procedures if the NT has made a representation which contains an objection to the CA of the land held inalienably by the NT, and that objection has not been withdrawn. The ExA has also had regard to the DCLG CA Guidance (Paragraph 38, Annex A, Paragraphs 4 and 5).
- 28.8.27. In this case, the NT's objection to the CA of land for the Proposed Development has not been withdrawn. As such, the ExA finds that the CA of the NT land at Weybourne Woods would be subject to special parliamentary procedures. However, given the closing statements by both parties' states that they have reached agreement in principle, the ExA recommends that if the SoS is minded to grant consent, the SoS may wish to seek an update from the Applicant and the NT, confirming whether or not the objection from the NT has been withdrawn. If parties confirm that the NT's

objection has been withdrawn then the SoS may conclude that the case for CA of the NT's land at Weybourne Woods is made.

28.9. STATUTORY UNDERTAKERS LAND

28.9.1. The Applicant's updates on negotiations with SUs was submitted throughout the Examination [REP1-053] [REP3-083] [REP5-037] [REP7-049] and at Hearings, with the final update [REP8-036] provided at the close of the Examination.

SUs relying on standard provisions and SUs with agreed bespoke PPs

28.9.2. The following SUs did not make any representations to the Examination and the Applicant confirmed that they would rely on standard provisions included in the dDCO at Schedule 14 [REP8-036]:

- 1) Centrica;
- 2) TC Dudgeon OFTO PLC;
- 3) Dudgeon Offshore Wind Limited;
- 4) Scira Offshore Energy Limited (Scira Offshore Energy);
- 5) Virgin Media;
- 6) Open Reach;
- 7) Energis Communications Limited; and
- 8) Vodafone.

28.9.3. Frontier Power on behalf of Blue transmission Sheringham Shoal submitted a RR, but later wrote to confirm withdrawal of the RR [RR-034] [REP7-103]. Applicant confirmed that Frontier Power would also rely on Standard Provisions in the dDCO at Schedule 14 [REP8-036].

28.9.4. The following SUs did not make any representations to the Examination and the Applicant has confirmed that they would rely on standard provisions included in the dDCO at Schedule 14. However, the Applicant also said the further negotiations are ongoing [REP8-036]:

- 1) Shell U.K. Limited; and
- 2) Harbour Energy.

28.9.5. Independent Oil and Gas (IOG) stated that it would need protections to ensure that access to the Blythe platform for helicopters is not affected by the Proposed Development, and that it would continue its negotiations with the Applicant [RR-044] [EV-013] [EV-017]. Nothing Further was received from IOG. Applicant confirmed that IOG would rely on standard provisions included in the dDCO at Schedule 14. However, the Applicant also said the further negotiations were ongoing [REP8-036].

28.9.6. The following SUs have written into the Examination to confirm that bespoke PPs have been agreed, and included in the dDCO [REP8-005].

- 1) Anglian Water [REP7-092];
- 2) Environment Agency (EA) [REP8-091];
- 3) Norfolk Rivers Internal Drainage Board (IDB) [REP8-111];
- 4) NCC in their role as Lead Local Flood Authority (LLFA) [REP8-082];
- 5) Cadent Gas Limited [REP8-085];
- 6) Eastern Power Networks / UK Power Networks (Operations) Limited [REP8-090];
and
- 7) Vattenfall Wind Power Limited (Vattenfall Wind Power) [REP8-122]

28.9.7. The ExA has reported only on the SUs or parties that proposed PP for inclusion in the dDCO where matters remain unresolved, or where the SoS would need to seek further evidence. These are:

- 1) National Gas Transmission (NGT);
- 2) National Grid Electricity Transmission PLC (NGET);
- 3) NH;
- 4) National Rail;
- 5) NCC as promotor of the Norwich Western Link (NWL);
- 6) Orsted in relation to Hornsea Project Three (Hornsea 3);
- 7) Orsted in relation to Hornsea Project Four (Hornsea 4); and
- 8) Perenco.

ExA's Reasoning

28.9.8. For all the following SUs there are no outstanding objections to the Proposed Development, the ExA concludes that s127 of the PA2008 is not engaged. The ExA also concludes that the rights sought by the Applicant from these SUs, would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of PA2008. These SU's are: Centrica; TC Dudgeon OFTO PLC; Dudgeon Offshore Wind Limited; Scira Offshore Energy; Virgin Media; Open Reach; Energis Communications Limited; Vodafone; Frontier Power; Anglian Water; EA; Norfolk Rivers IDB; NCC in their role as LLFA; Cadent Gas Limited; Eastern Power Networks / UK Power Networks (Operations) Limited; and Vattenfall Wind Power.

28.9.9. For the SUs: Shell U.K. Limited, Harbour Energy, and IOG, the SoS may wish to confirm if the outcome of the negotiations would have any impact on the SU's position with respect to the suitability of the standard provisions.

28.9.10. The ExA has reported on the SUs where matters remain unresolved in the following sections, namely: NGT; NGET; NH; National Rail; NCC as promotor of the NWL; Orsted in relation to Hornsea 3 and Hornsea 4; and Perenco.

National Gas Transmission

28.9.11. NGT objected to the Proposed Development being carried out in close proximity to its apparatus and to the CA of its land interests until suitable PP, related agreements had been secured and included in the dDCO. NGT highlighted its main area of concern were high pressure gas transmission pipelines located within or in close proximity to the Order Limits [RR-059] [REP1-125].

28.9.12. The Applicant did not respond to any of individual concerns raised by NGT but confirmed that it was in ongoing discussions with NGT with a view to reaching agreement on PP before the end of the Examination [REP1-033] [REP2-017]. The Applicant's dDCO includes PP or the protection of Network Rail assets at Part 6 of Schedule 14 [APP-024] [REP8-005].

28.9.13. Before the close of the Examination, NGT confirmed that commercial terms between the Applicant and NGT had been agreed but not formalised. While the process for formalising those terms would take place in the coming weeks, NGT continued to maintain its objection to the Proposed Development until terms were formalised [REP8-095].

ExAs Reasoning

28.9.14. The ExA can conclude that the rights sought by the Applicant in this case would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of the PA2008.

28.9.15. In light of the outstanding objection received from NGT, the ExA considers that s127 is engaged. While the statements from the parties are positive and anticipate an agreement, there was no such agreement at the end of the Examination. As the wording of the PPs are not yet agreed the SoS would need to get confirmation from parties on agreement on PPs.

National Grid Electricity Transmission PLC

28.9.16. NGT objected to the Proposed Development being carried out in close proximity to its apparatus and to the CA of its land interests until suitable PP, related agreements had been secured and included in the dDCO. NGT highlighted its main area of concern were high pressure gas transmission pipelines located within or in close proximity to the Order Limits [RR-058] [REP1-127] [REP1-128].

28.9.17. NGET stated that that its main assets affected by the Proposed Development was the Norwich Main National Grid Substation (Norwich Main Substation), high voltage overhead electricity transmission lines, and above-ground electricity transmission infrastructure proposed in the area. NGET stated that the potential effects of the Proposed Development would be:

- the effect of the proposed National Grid substation connection works;
- the effects of the CA of land surrounding the Norwich Main Substation may have on the intended expansion; and
- the effect of the rights and powers sought by the Applicant over the access road to the Norwich Main Substation.

28.9.18. The Applicant responded that details of the works near Norwich Main Substation were still subject to final detailed design, the Applicant would continue discussion to enable co-existence of all infrastructure and to agree appropriate PP and agreements [REP1-033] [REP2-017]. The Applicant's dDCO includes PP or the protection of Network Rail assets at Part 7 of Schedule 14 [APP-024] [REP8-005].

28.9.19. NGET remained particularly concerned about the proposed TP of the Plots 39-032, 39-034, 39-035 and 39-037, which NGET stated were immediately adjacent to the Norwich Main Substation and are highly likely to be required by NGET in relation to the planned extension of the same. NGET stated the view that the extent of TP powers and rights being sought by the Applicant was disproportionate to the nature of the works required to be undertaken [REP5-084].

28.9.20. The Applicant responded that the extent of the land identified for CA and TP around Norwich Main Substation was indeed necessary because, the Applicant did not have certainty of the final connection points for SEP and DEP. The Applicant felt it was important that it retained flexibility to allow the undertaker to micro-site and finalise designs with NGET taking into account future proposed developments. The Applicant considered that with appropriate PP in place, there would be no serious detriment suffered by NGET [REP6-017].

28.9.21. Before the close of the Examination, NGET confirmed that commercial terms between the Applicant and NGET had been agreed but not formalised. While the process for formalising those terms would take place in the coming weeks, NGT continued to maintain its objection to the Proposed Development until terms were formalised [REP8-096].

ExAs Reasoning

- 28.9.22. The ExA can conclude that the rights sought by the Applicant in this case would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of the PA2008.
- 28.9.23. In light of the outstanding objection received from NGET, the ExA considers that s127 is engaged. While the statements from the parties are positive and anticipate an agreement, there was no such agreement at the end of the Examination. As the wording of the PPs are not yet agreed the SoS would need to get confirmation from parties on agreement on PPs.

National Highways

- 28.9.24. NH stated right at the outset of the Examination that it objects to the CA of land owned or occupied by NH. NH stated the land identified for CA was forming part of the SRN A47 and A11 and had the potential to impact the A47 North Tuddenham to East Development Consent Order 2022 (A47 North Tuddenham Project) and A47-A11 Thickthorn Junction schemes. NH also stated that a part of its concern was the Applicant's proposed cable corridor would be underneath the A47 at Easton and A11 at Hethersett to the proposed substation at Norwich Main.
- 28.9.25. Matters relating to the CA of NH land and the negotiations on PPs are reported in this section, and management of the implication of the interaction of the Proposed Development with the A47 North Tuddenham to Easton scheme has been reported in Chapter 18 of this Recommendation Report.
- 28.9.26. NH explicitly stated that in applying s127 of the Planning Act 2008, SoS cannot conclude that new rights and restrictions over NH's land identified for CA in this application, can be created without serious detriment to NH's undertaking. To withdraw its objection, NH would require the inclusion of PPs in the Order for NH's benefit. NH would also need agreement with the Applicant, that the manner in which rights would be acquired and the works in the vicinity of the SRN, would be carried out in a way that protects NH's statutory undertaking [RR-060] [REP1-132]. NH land interests would be further affected with the changes to Order limits near the FEP as a result of the Applicant's second Change Request. While this did not give rise to any new concerns for NH, NH reiterated its previous concerns about not reaching agreement regarding the PPs, and further that it was NH's impression that the Applicant was not ready to progress agreement before the Examination would close [RR-060CR].
- 28.9.27. The Applicant responded that discussions regarding adequate protection of NH's assets were ongoing to facilitate and progress negotiation of PPs and a Co-operation Agreement. The Applicant also confirmed that it had agreed with NHs the principle of entering into a Co-operation Agreement in relation to overlap of the Proposed Development with the A47 North Tuddenham to Easton made DCO and has provided detailed HoTs to NH. The Applicant explained that the terms of the proposed Co-operation Agreement would be beyond the scope of the PPs [REP1-033] [REP5-066]. Later the Applicant also included PP for the protection of NH at Schedule 14, Part 14 of the dDCO [REP3-009].
- 28.9.28. NH was also of the view that the installation of the cabling under the A47 could be achieved via the New Roads and Street Works Act 1991 (NRSWA1991) therefore negating the need for CA. NH argued that given NRSWA1991 contained the provisions to tunnelling/ boring under the highway, the Applicant had not made out the case for CA concerning these works [REP3-139].

- 28.9.29. Responding to NH's argument regarding the Applicant's case for CA, the Applicant clarified that it was not seeking to acquire permanently any land forming part of the existing SRN or land that is proposed to become part of the SRN pursuant to the A47 North Tuddenham to Easton DCO (which is currently subject to judicial review). The Applicant said that the proposed HDD to install cabling under the SRN would be an integral part of delivering the Proposed Development which was an NSIP and it is entirely appropriate that those works are included within the dDCO, as associated development, in the way intended by the PA2008. The Applicant highlighted that the NH's own promoted A47 North Tuddenham to Easton DCO Article 14, A428 Black Cat to Caxton Gibbet DCO Article 11, NH was seeking CA powers to acquire subsoil interests despite the surface of affected land having highway status and NRSWA1991 being applicable [REP4-035].
- 28.9.30. The ExA sought updates on progress with PP at several points during the Examination, and also asked for further details on the Co-operation Agreement that was being progressed at the same time [PD-012, Q2.23.6.1] [PD-017, Q3.23.6.1] [EV-068] [EV-072]. These updates can be followed in the Applicant's regular updates on negotiations with SUs submitted throughout the Examination [REP1-053] [REP3-083] [REP5-037] [REP7-049] [REP8-036] and more specifically as reported in the following Paragraphs.
- 28.9.31. NH provided further details and stated that the PPs were needed to secure a range of protections, including bonds, cash deposits and commuted sums to ensure that NH would not be exposed financially as a result of the Applicant's works, road space booking procedures for the safety of the public and contractors, appropriate maintenance obligations, collateral warranties from the Applicant, restrictions on the commencement of works and the use of powers until detailed design and safety specifications are agreed, handover of maintenance responsibilities, and dispute resolution provisions. NH acknowledged that negotiations were in progress with the Applicant but provided alternative PP for the inclusion while agreement was not reached [REP3-139, Appendix 1].
- 28.9.32. The Applicant did not agree with NH's proposed PPs and said they were too onerous, and that it would continue to negotiate. Here, the Applicant also said that for NH to succeed in an argument under s127, NH would need to provide convincing argument and evidence of the detriment that the Proposed Development would cause to its assets, which had not been provided so far. The Applicant was of the view that the CA of NH interest would not cause serious detriment to its undertaking [REP4-035]. The Applicant highlighted the decision on the Lake Lothing DCO where the SoS Transport agreed with the ExA that in the context of s127 the Proposed Development would not be of serious detriment to the Associated British Ports' (ABP) statutory undertaking. However, the SoS Transport's decision also notes that the ABP had ultimately withdrawn the objection to the Proposed Development [REP4-035, Appendix A].
- 28.9.33. NH insisted that the PP proposed by NH had been subject to a recent legal review and were fit for purpose. Moreover, the PP provided greater protection to NH from third party development that affects the SRN and its functions as a strategic Highway Authority (HAU). NH also insisted that the Proposed Development had the potential to cause serious detriment to its undertaking, broadly on account of the following reasons [REP5-086] [REP5-085]:
- general impacts on the A47 and the day-to-day operation of several highways that form part of the SRN, which was proposed for construction traffic, and for the installation of onshore cables beneath the SRN;

- the CA rights, while only for TP, over a number of parcels of land that fall within the Order limits of the A47 North Tuddenham to Easton scheme, which the SoS agreed was necessary for the purposes of the carrying out of the scheme, could authorise the Applicant to carry out several tasks which would conflict with the Requirements of the A47 North Tuddenham to Easton scheme DCO and cause NH to be in breach of its own Order; and
- concerns relating to the interaction between the and the Proposed Development, the A47 North Tuddenham to Easton scheme, and Hornsea 3 DCO, which would need to be managed through a Co-operation Agreement, which has not yet been agreed.

28.9.34. The Applicant updated its proposed PPs [REP6-002] based on the most recent drafting provided by NH which would cover the existing SRN and also the A47 North Tuddenham to Easton Order land. The Applicant also emphasised that the provision in the PPs provided several protections to prevent serious detriment to NH's duties relating to the SRN, such as providing for an approvals process, restrictions on exercising certain powers, and complying with NH specifications and requirements. Additionally, the Applicant confirmed that the final CTMP, in accordance with R15 of the dDCO, would need approval by the relevant LAs in consultation with NCC and NH, thereby securing post determination consultation. The Applicant reiterating its position that the Proposed Development would not give rise to serious detriment to the SRN because the appropriate mitigation measures and protections would be in place. In addition, the Applicant also agreed that a Co-Operation Agreement to supplement the PPs to appropriately manage the interactions between the Proposed Development and the A47 North Tuddenham to Easton DCO was necessary, and negotiations with NH were progressing [REP6-016].

28.9.35. The ExA specifically asked NH if NH's concerns relating to the CA of its land interests would fall away if and when PP and the Co-operation Agreement was agreed. Both parties confirmed in agreement; however felt that the areas of disagreement still needed to be recorded [EV-104] [EV-106]. To that end, NH provided a submission with the versions of PPs exchanged with the Applicant and requested that NH's proposed PP should be substituted for those proposed by the Applicant [REP7-105].

28.9.36. Near the end of the Examination, NH proposed a change to the dDCO on a related matters. NH stated that cabling for the Proposed Development would be required under the A47, which could be completed by NH during the construction of the A47 North Tuddenham Project, and in that way minimise public disruption, cost and abortive works. To secure this, NH proposed that Article 5(9) of the dDCO could be amended to include that the works relating to cabling under the A47 could be transferred to NH without the consent of SoS [REP7-105]. The Applicant agreed to this and provided amended wording in the final dDCO before the close of the Examination. The ExA does not have NH's comments on the amended wording for Article 5(8) as proposed by the Applicant [REP8-054], because it was provided on the last day of the Examination.

28.9.37. At the close of the Examination the Applicant submitted on the basis of the agreed mitigations and protections secured through Applicant's proposed PPs, there would be no serious detriment to NH's assets or undertakings, and summarised a response to NH's claims of serious detriment [REP8-055]:

- that the Applicant was not seeking permanent acquisition of NH's land interests, and rights were being sought under only five of the plots in the SRN;
- providing detailed reasoning for including several changes in the PPs in line for NH's request and detailing why some of NH's requested provisions were not necessary or reasonable;

- removal of the Applicant's TP authority from a part of plot 27-006 to remove conflict with NH's DCO Requirements pursuant of the A47 North Tuddenham to Easton scheme DCO, rendering that part of the 27-006 to be white land or land within the Order limits but without any CA or TP powers on it (further details on plot 27-006 are covered in the following section); and
- including amendments to Article 5 of the dDCO to provide that works under the SRN could be transferred to NH without obtaining consent from the SoS, to facilitate, if possible, the potential option for NH to install ducts under the re-aligned A47 during construction of the A47 North Tuddenham to Easton scheme.

28.9.38. The matter was not resolved and the ExA did not receive confirmation that PPs had been agreed between parties. As such, NH's objection to the CA of its land interests were outstanding at the close of the Examination.

The misalignment of ACC46

28.9.39. NH raised a concern regarding construction works access ACC46, off the A47 [AS-051, Sheet 28]. This was regarding an assumption made by the Proposed Development that there would be public highway access rights to a new private field access off Taverham Road on account of the proposed layout for the A47 North Tuddenham Project. NH stated that the extent of adopted highway at this location was yet to be verified as part of future handover of the side roads and cycle track to NCC, and so any assumption would have to include a precaution on the part of the Applicant. Crucially, due to localised adjustments there was mis-alignment between the access gate to the field, and ACC46 as proposed by the Applicant. The implication of this was that the current Order limits did not include a small area of private land to reach to field access gate from Taverham Road [REP3-138].

28.9.40. The Applicant acknowledged the misalignment [REP4-028, Figures 1, to 3, Pages 72 and 73]. The Applicant stated that there was still uncertainty surrounding developments within this area, and so the exercise of realigning ACC46 should take place outside of the Examination and following the conclusion of the judicial review of the A47 North Tuddenham Project. The Applicant also stated that it was too late to submit a change request to this Examination which would involve a change in the Order limits. The Applicant proposed that the powers and consent for the realignment of ACC46 could be secured by way of an application to amend the SEP and DEP DCO (if consent is granted) post-consent, or pursuant to planning permission under the Town and Country Planning Act 1990 (TCPA1990). Given the minor nature of the misalignment and the benefits generated through correcting the access alignment, the Applicant did not foresee there to be any impediment to securing consent to realign the access [REP4-028].

28.9.41. The ExA, explored the implications of the misalignment of ACC46 for the CA of land interests and asked the Applicant if it needed to include more lands in the Order limits to enable access ACC46, and if there was any land currently included in the Order limits that would not be required for the Proposed Development. In that regard the ExA asked if the Applicant's strategic case for CA was still robust, given there could be need for additional land to deliver the Proposed Development, and/ or the land that was within Order limits would not be needed for the Proposed Development [PD-017, Q3.23.5.4] [EV-104] [EV-106]. During an Unaccompanied Site Inspection (USI), the ExA visited a location on Taverham Road, and was able to view the location of the proposed access ACC46 through a break in the hedgerow [EV-094].

28.9.42. The Applicant confirmed that additional land was likely to be required as a result of the re-design of ACC46 misalignment. The Applicant confirmed that while a part of the plot 27- 006 would still be required for ACC46, another part of plot 27-006 would no longer be required for ACC46 due to the misalignment. As such, the Applicant

amended the land plans [REP7-002, Sheet 28] to remove the part of plot 27- 006 that was no longer required for ACC46, but not changing the Order limits. This would mean that a part of plot 27-006 would be white land where the undertaker would not have powers of TP and CA. This was on the basis that the Applicant considered the justification for seeking CA powers over that part of plot 27-006 was no longer made. The Applicant confirmed there is no other white land within the Order limits [REP7-064] [EV-104] [EV-106].

- 28.9.43. The ExA asked the Applicant if updates were required to any other documents, including the EM, the strategic case for CA, and SoR to support its proposed approach with respect to the inclusion of white land. The ExA also asked for an update of discussions and agreements reached with the landowner for the land included within the Order limits that was no longer needed for access ACC46, and the land currently not included within the Order limits which would be required to enable access ACC46. The ExA asked the Applicant to provide an assessment of viability of the Proposed Development if agreement was not reached and if the Applicant was unable to acquire the land currently not included within the Order limits which would be required to enable access ACC46 [PD-02, Q4.8.2.1].
- 28.9.44. The Applicant updated the SoR [REP7-014, Paragraph 233], but did not find that any other updates were needed. The Applicant stated that it had agreed HoT for the current design of ACC46, and on that basis anticipated that a new agreement could be secured voluntarily to reflect the future design of ACC46 post Examination. However, in the event Agreement was not reached, the Applicant would consider alternative options such as seeking a change to the DCO post consent (if consent were granted) to include the re-designed access together with relevant TP powers [REP7-065, Q4.8.2.1].

ExAs Reasoning

- 28.9.45. The ExA has first considered the case relating to s127 and if there is a valid case of serious detriment to NH's undertaking due to the Proposed Development.
- 28.9.46. Here the ExA has considered the precedence that the Applicant put forward for Lake Lothing but does not find that case to be an applicable precedent, given the objection from ABP was ultimately withdrawn. As such, even if the SoS Transport found that the detriment to ABP's undertaking would not be serious, the SoS Transport did not actually conclude if s127 was engaged or not.
- 28.9.47. Without any precedent, the ExA considers the evidence put forward by the Applicant and NH on matters relating to serious detriment. Regarding the effects of construction traffic of the Proposed Development on the day-to-day operation of the SRN, the ExA has reported this in detail in Chapter 18 of this Recommendation Report and concluded that the effects would be adequately managed. On this matter, the ExA does not consider NH makes a valid case.
- 28.9.48. However, the ExA is convinced on both other matters relating to the potential conflict with the CA of rights on land that fall within the Order limits of the A47 North Tuddenham Project, and the concerns relating to the interaction between the Proposed Development, the A47 North Tuddenham to Easton scheme, and Hornsea 3 scheme. The ExA finds that any potential for a conflict would be a serious detriment to NH's undertaking and cause NH to be in breach of its own Order for A47 North Tuddenham Project. On that basis, the ExA concludes that s127 is engaged in relation to the proposed CA of land interests held by NH.

- 28.9.49. With regard to s138, the ExA has considered NH's case that the Applicant could do some of the proposed work under the NRSWA1991, and in that regard the land may not be required for CA at all. The Applicant however, makes a strong case that given the CA of NH's land interest is for an integral part of the Proposed Development which is an NSIP, it is appropriate that those works are included within the dDCO, as provided for by the PA2008. The ExA also takes into account the precedent in NH's own promoted NSIPs where such provisions are included in made DCOs. The ExA concludes that the NH's land would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of PA2008.
- 28.9.50. Having concluded on s127 and s138, the ExA finds that it is essential for agreement between the Applicant and NH, and for NH to lift its objection in order for the Applicant's case for CA to be made for NH's land interests. The ExA notes that both parties agree that a Co-operation Agreement, that is currently in negotiation, is needed for proper management of the interactions identified between the Proposed Development and other proposed schemes in the area. This is not agreed and nor was it presented in Examination, and as such the ExA cannot give it any weight. The ExA can only rely on agreement on the PP. The ExA acknowledges that the Applicant has made considerable changes to its proposed PP in the dDCO in response to NH's comments. However, given that the ExA has already concluded that the Proposed Development would cause serious detriment to the undertaking of NH, the ExA must find with NH and its requirements for protection of its assets, as set out in NH's proposed PP [REP7-105]. The ExA recommends that NH's proposed PP are included in the made DCO, if consent is granted.
- 28.9.51. However, the ExA has not included NH's proposed PP in the rDCO, because the ExA is aware that negotiations between NH and the Applicant are underway outside and after the Examination, and it is possible that agreement would be reached for the SoS to consider. The ExA recommends that the SoS consults with the Applicant and NH on progress with agreement on the PP. The ExA recommends that subject to the response, SoS should include in the Order, either the PP agreed by both parties or the PP proposed by NH.
- 28.9.52. The ExA finds NH's and Applicant's proposed amendments to Article 5 are reasonable and indeed beneficial from the point of view of minimising disruption. The ExA has included this amendment in the rDCO. While both parties are agreed on this amendment in principle, the exact wording was submitted into Examination the day it closed. As such, the SoS may wish to consult with NH if the Applicant's proposed drafting would be suitable.
- 28.9.53. Regarding the misalignment of ACC46, the ExA makes the following findings:
- 1) For the land included within the Order limits, a part of plot 27-006, that is not needed for the Proposed Development, the ExA finds that quantum of land is not significant. The Applicant's approach to remove all CA and TP rights from that unrequired part of plot 27-006 and have it within the Order limits as white land, is sound. In that regard, the changes to Land Plans adequately secure this change and SoR also provides adequate explanation. The ExA concludes here that this specific matter does not affect or weaken the Applicant's strategic case for CA.
 - 2) For the land that is not within the Order limits but might be needed for the ACC46, in the absence of any substantive evidence, that ExA cannot rely on the Applicant's optimism regarding positive outcome of negotiations with the landowner. But the ExA finds that the Applicant's approach to correct this error after there is greater certainty on the A47 North Tuddenham to Easton Project stands to reason. As such, the ExA finds that securing this land through an

application to amend the SEP and DEP DCO (if consent is granted) post-consent, is a reasonable approach.

- 28.9.54. The ExA can conclude that the misalignment of ACC46, the resulting inclusion of white land, and the possible need for some additional land for ACC46 post consent does not in itself make a difference to the Applicant's case for CA.

National Rail

- 28.9.55. Network Rail Stated that that it objected to the CA of its land. The land identified was operational railway land forming part of the North Norfolk, the Breckland and the Great Eastern railway lines (together the Railway Lines) [RR-002]. Network Rail [REP1-140] identified the areas of interaction between the Proposed Development and the Network Rail assets were:

- cabling under the Anglian Railway line to the southwest of Ketteringham and under the North Norfolk Railway line near Weybourne Railway Station;
- proposed construction traffic over the Hickling Lane Overline Bridge; and
- the permanent access road at the Norwich Main National Grid substation, was proposed 10m from Network Rail's railway boundary.

- 28.9.56. The Applicant did not respond to any of individual concerns raised by network Rail but confirmed that it was in ongoing discussions with Network Rail with a view to reaching agreement on PP before the end of the Examination [REP1-033] [REP2-017]. The Applicant's dDCO includes PP or the protection of Network Rail assets at Part 3 of Schedule 14 [APP-024] [REP8-005].

- 28.9.57. In response to ExA's WQs, Network Rail confirmed that it was satisfied with the proposed access road to Norwich Main National Grid substation. Also, Network Rail had been informed by the Applicant that it no longer proposed that Hickling Lane Overline Bridge be used for construction traffic. As such, Network Rail confirmed that its concerns on that matter had also been alleviated [REP1-141] [REP3-148].

- 28.9.58. No further representations were received from Network Rail until the end of the Examination, when Network Rail stated that it has been negotiating with the Applicant and hoped to reach private agreement with the Applicant [REP8-110]. However, since agreement had not been reached, Network Rail submitted its preferred PP for inclusion in the rDCO [REP8-109].

ExAs Reasoning

- 28.9.59. The ExA can conclude that the rights sought by the Applicant in this case would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of the PA2008.

- 28.9.60. In light of the outstanding objection received from Network Rail, the ExA considers that s127 is engaged. While the statements from the parties are positive and anticipate an agreement, there was no such agreement at the end of the Examination. If the SoS is minded to grant consent, they would need to seek confirmation from parties on agreed PP for inclusion in the Order.

NCC as promotor of the NWL

- 28.9.61. As explained by NCC, the NWL was a proposed 3.9km length of new dual carriageway which would connect the A1270 Broadland Northway (formerly known as the Norwich Northern Distributor Road) to the A47 to the west of Norwich. In 2023 NCC stated that it intends to submit a planning application for the NWL and to make statutory orders (a compulsory purchase order and side roads order) under the

Highways Act 1980 (HA1980). NCC notes that the proposed Order limits would overlap with part of the proposed alignment of the NWL and approximately 100m of the NWL would be affected. NCC requested that the Applicant engages formally with NCC to agree PP in the dDCO, and a Co-Operation Agreement to facilitate co-existence of the two projects [RR-065].

- 28.9.62. The Applicant stated that the application for NWL has not yet been submitted. However, that Applicant confirmed that it had taken NWL into consideration, for instance within the Cumulative Effects Assessment (CEA) for traffic and transport. The Applicant also said that it would meet NCC regularly to continue discussions as the design of both schemes develop further and engage with NCC in order to agree on suitable protections for the NWL [REP1-033].
- 28.9.63. Shortly before the close of the Examination, NCC stated that its concerns regarding the effects of the Proposed Development were outstanding and submitted its preferred drafting for NWL to be included in the rDCO [REP7-087] [REP7-086].
- 28.9.64. The Applicant stated that it would engage on a Co-operation Agreement with NCC, but this process would be more suitably timed after the application for NWL has been submitted. Additionally, the Applicant also stated that it would be unreasonable for PP to be imposed for the benefit of a scheme which still had a degree of uncertainty [REP8-057] [REP8-051].

ExAs Reasoning

- 28.9.65. The ExA has limited information and evidence before it, regarding the spatial interaction between the Proposed Development and NWL. While NCC indicates there might be some land that is required for both NWL and the Proposed Development, the details of this overlap are not before the ExA. Likewise the ExA has an outline of how the Proposed Development would effect NWL when it is built, but there is no substantive evidence to demonstrate this. With the limited information, lateness of submission, and no definitive details about the delivery of NWL, the ExA cannot conclude if s138 and s127 apply. On the basis of the information before it, and given the lack of input from the Applicant, the ExA finds the inclusion of PP as proposed by NCC, in the rDCO would not be reasonable.

Orsted in relation to Hornsea 3

- 28.9.66. Orsted set out that Hornsea 3 was a made DCO for an offshore windfarm (OWF). Orsted explained that the Proposed Development would interact with the Hornsea Three Order in two main ways:
- nearby or overlapping rights for the onshore grid connection cable routes at the point of landfall and the connection with the substation at Dunston; and
 - the potential for crossing and proximity of the cables at three locations east and south-east of Weston Longville.
- 28.9.67. Orsted stated that the dDCO included generic PP for Electricity Act 1989 licence holders but as drafted these would only apply to existing apparatus and not to the construction of the Hornsea 3 cables. As Hornsea 3 is a consented NSIP, Orsted asserted that protections would be needed to ensure that the Proposed Development would not prohibit or delay the construction and/or operation of Hornsea 3 or result in Hornsea 3 being in breach of it Order. Hornsea 3 would continue to work with the Applicant to facilitate agreement between the parties [RR-072].
- 28.9.68. The Applicant responded briefly to state that discussions and negotiations were ongoing in relation to the PP and a potential Co-operation Agreement [REP1-034].

The Applicant's dDCO includes PP or the protection of Network Rail assets at Part 10 of Schedule 14 [APP-024] [REP8-005].

- 28.9.69. Orsted made further representations to emphasise that there were interactions between Hornsea 3 and the Proposed Development, because the proposed wind farm array area and the intertidal temporary works area is near the Hornsea Three offshore export cable corridor. There were several interactions onshore as well, including near Weston Longville/ Ringland Lane, with respect to the NWL Road Scheme, west of Easton, and at Norwich Main Substation. Crucially, Orsted highlighted that the Applicant's proposed PP only dealt with onshore matters, while Hornsea 3 required PP to also deal with offshore interactions [EV-012] [EV-016] [EV-014] [EV-018] [REP1-154].
- 28.9.70. The Applicant responded to confirm it would continue to engage with Orsted [REP1-031] [REP2-017]. The Applicant updated the PP for Hornsea 3 [REP5-006], but Orsted confirmed that further protections were still needed, and the matter was still under discussion [REP6-033]. Subsequently, Hornsea 3 provided its proposed draft PP which requested unhindered access to Hornsea 3 Order limits, indemnity with respect to any delay to Hornsea 3 as a result of the Proposed Development, and detailed co-operation provision relating to offshore mitigations [REP7-118]. The Applicant responded that provisions were already in place to ensure access to Hornsea 3 Order limits. The Applicant did not agree that any provision for indemnity could be included as it would be difficult to define. The Applicant also disagreed on the co-operation on offshore mitigation was a matter for PP [REP7-131] [REP8-058].
- 28.9.71. The Applicant and Orsted submitted a joint statement at the close of the Examination, which stated that an agreement between parties was imminent, which would either conclude that PP was no longer required for the benefit of Hornsea 3 or that PP had been agreed. Orsted highlighted that its proposed PP for the benefit of Hornsea 4 was before the ExA to include in the rDCO [REP8-077] [REP8-114].

ExAs Reasoning

- 28.9.72. The ExA can conclude that the rights sought by the Applicant in this case would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of the PA2008.
- 28.9.73. In light of the outstanding objection received from Orsted, the ExA considers that s127 is engaged. While the statements from the parties are positive and anticipate an agreement, there was no such agreement at the end of the Examination.
- 28.9.74. If the SoS is minded to grant consent, they would need to seek confirmation from parties on agreed PP for inclusion in the Order.

Orsted in relation to Hornsea 4

- 28.9.75. Orsted stated that Hornsea 4 was an OWF, awaiting SoS decision on a DCO. The Applicant had not included PP for the protection of Hornsea 4 in the dDCO.
- 28.9.76. While there is no spatial overlap between the Proposed Development and Hornsea 4, Orsted asserted that there was the potential for interface offshore, and in that regard it would submit PP for the protection of Hornsea 4, if granted consent [REP1-155] [REP7-117].
- 28.9.77. The Applicant did not agree that PP if submitted to Examination should be included in the rDCO, because the Applicant would not have had an opportunity to consider or comment on it [REP8-059].

- 28.9.78. Shortly before the close of the Examination, Hornsea 4 received consent from SoS, and proceeded to submit its preferred drafting for PP for the benefit of Hornsea 4 to be included in the rDCO. Orsted also stated that Hornsea 4 had also been working with the Applicant on a Co-operation Agreement. This submission was received on the final day of the Examination [REP8-113].
- 28.9.79. Alongside, the Applicant and Orsted submitted a joint statement at the close of the Examination, which stated that an agreement between parties was imminent, which would either conclude that PP was no longer required for the benefit of Hornsea 4 or that PP had been agreed. Orsted highlighted that its proposed PP for Hornsea 4 was before the ExA to include in the rDCO [REP8-077] [REP8-114].

ExAs reasoning

- 28.9.80. On account of limited spatial interaction between the Proposed Development and Hornsea 4, and given that Hornsea 4, is not included in the BoR, the ExA finds that s138 does not apply.
- 28.9.81. Also on account of the limited spatial interaction between the Proposed Development and Hornsea 4, and little or no evidence on how the Proposed Development would impact on Hornsea 4, the ExA also finds that s127 does not apply. With the information before it, and given the lack of input from the Applicant on Hornsea 4's proposed PP, the ExA finds that inclusion of PP proposed by Hornsea 4 in the rDCO would not be reasonable.
- 28.9.82. However, given the joint statement from the parties which was positive and anticipated an agreement, the SoS may wish to seek an update on the parties.

Perenco

- 28.9.83. As set out in Chapter 14 of this Recommendation Report, there was a dispute throughout the Examination between the Applicant and Perenco with regard to the proximity of proposed DEP-N turbines to the offshore Waveney platform. This is a platform with drills into the Waveney gas field and is operated by Perenco. The Applicant originally proposed a 1 nautical mile (nm) buffer around the platform to allow for a level of helicopter access to the Waveney platform which would keep it viable [APP-102].
- 28.9.84. Later in the Examination, Perenco considered a potential 1.26nm buffer. They considered that for daylight helicopter access there would be an annual average of 67% access to Waveney compared to 71% if there were no wind turbines developed at DEP-N [REP7-121, Table 2]. Perenco had stated that it would be amenable to this 1.26nm buffer if there was a commercial arrangement which provides compensation for economic losses arising from a level of negative impacts [REP7-120]. However, there was no commercial agreement at the end of the Examination and Perenco submitted PPs including an obstacle-free area comprising a cylinder with a horizontal radius of 3nm [REP7-122]. At 3nm there would be no (or very little) impact to helicopter access.
- 28.9.85. PP with a 1.26nm buffer was included by the Applicant in the dDCO for the benefit of Perenco UK, operators of Waveney. This was provided at the final deadline. The PP for Perenco is within dDCO Schedule 14, Part 15 [REP8-005]. The PP states that the undertaker must not construct, or carry out any works to install any wind turbine generators or offshore substation platforms within the 500m pipeline proximity area, within the facilities proximity area (the 1.26nm buffer), or to adversely affect the line of sight. Perenco has not seen this PP and still had an outstanding objection at the close of the Examination.

ExAs Reasoning

- 28.9.86. The ExA concludes that the rights sought by the Applicant in this case involving all the above would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of the PA2008.
- 28.9.87. In light of the outstanding objection received from Perenco, the ExA considers that s127 is engaged.
- 28.9.88. With the final version of the Applicant's proposed PP setting a facilities proximity area (the 1.26nm buffer), ExA considers that there would be the loss of approaches in some weather conditions if DEP-N was built out. However, the ExA finds that this would be minimal, with the Perenco's calculation of daylight access being reduced by only 4% from if there was no Proposed Development and taking into account newly anticipated Civil Aviation Authority regulations [REP7-121]. The ExA is satisfied that on this basis the Proposed Development would have minimal impact on the viability of the Waveney Installation for the remainder of its operational life, and that the proposed PP would be suitable.
- 28.9.89. Due to its late submission within the Examination, the ExA recommends that the SoS consult with Perenco on the PP proposed by the Applicant, and if that lifts its objection.

28.10. PROPOSED CHANGES TO THE PROVISIONS IN THE dDCO

Article 16 – Authority to survey and investigate land

- 28.10.1. The ExA asked the Applicant to consider if the notice in Article 16(2) should include an indication of the work required, given the nature of work to make trail holes and dig trenches could be intrusive and would require preparation for the AP. The ExA also asked APs in what way they might be impacted by these provisions [PD-010, Q1.11.3.6].
- 28.10.2. The ExA also asked for further justification and clarification for the need for the provision in Article 16(1) "*The undertaker may for the purposes of this Order enter on any land within the Order limits or which may be affected by the authorised project*"; and if this meant that landowners outside the Order limits might be affected by this provision, the extent of the land over which this provision would be exercisable. The ExA asked for a list of landowners who might be affected by the provision in Article 16(1), and what consultation, if any had taken place to advise those landowners EV-031, 16.ii].
- 28.10.3. Some APs sought clarification of the extent of the proposed survey areas provided for in Article 16 and, specifically, how such survey areas could restrict APs' activities on the land being surveyed. APs felt that survey rights should be restricted so that the future use of the land would not be impacted [REP1-184] [REP7-129]. NFU, similarly asked that the notice under Article 16(2) to indicate the nature of the survey and investigation the undertaker intends to carry out, and further details of the surveyor, the date and duration of entry and the type of equipment if any will be used [REP1-122] [REP5-083].
- 28.10.4. The Applicant confirmed Article 16 was intended to capture land outside of the Order limits and reflects other equivalent powers, for example under s172 of the Housing and Planning Act 2016 (HPA2016) and the ability of an Electricity Undertaker to enter on and survey land under s10 and Schedule 4 of the Electricity Act 1989. In terms of a justification for the need for such powers, the Applicant said that there is sometimes

the need to survey species or to undertake surveys alongside the Order limits [REP1-036, Q1.11.3.6] [REP3-113].

28.10.5. The Applicant amended that drafting of Article 16 requiring the undertaker to provide further information on the types of surveys to be undertaken. The Applicant also confirmed these powers would only allow for temporary use of affected land and there are provisions for compensation included in the Article.

28.10.6. The matter remained unresolved between parties at the end of the Examination [REP7-129] [REP8-094] [REP8-049].

ExA's Reasoning

28.10.7. While the ExA finds that the powers in Article 16 are indeed widely drawn, the ExA finds the need to survey land which is not strictly within the Order limits is sound on account of the following:

- 1) the ExA can see how the survey of a species would require the undertaker to not be able to stick within Order limits;
- 3) the ExA can also see that determining far in advance how much beyond the Order limits the survey might be needed, for instance by identifying a boundary beyond the Order limits, is not possible because details of surveys are likely unknown at this stage;
- 4) the ExA relies of the parallel powers in other legislative regimes, such as HPA2016, and is reassured that it is a tested provision;
- 5) the Article includes a responsibility on the undertaker to restore the land, and pay compensation if there is any damage; and
- 6) the ExA welcomes the drafting amendments proposed by the Applicant which requires the undertaker to provide details of the proposed survey work in its notice.

28.10.8. On the basis of these reasons, that ExA concludes that the powers sought in Article 16 as proposed by the Applicant, and included in the rDCO are proportionate and necessary.

Article 20 – Compulsory acquisition of rights and Article 26 – Temporary use of land for carrying out the authorised project

28.10.9. The ExA acknowledged the explanation in the EM [AS-012, Paragraphs 88], but expressed concern that the scope of Article 20(1) and 20(2) was too broad because it did not specify that the provision to acquire rights or impose restrictive covenants over the Order land only applies to the plots listed in Schedule 7. The ExA sought further and robust justification (notwithstanding precedence of other made Orders) if the interaction between Article 26(8)(a), and Article 20(1) and 20(2) would allow the creation of unrestricted right to impose undefined new permanent rights over any of the Order land, including which is intended for TP only, and which has not been the subject of consultation on that basis [PD-010, Q1.11.3.8 and Q1.11.3.9] [EV-031, 16.iii and 16.iv].

28.10.10. The Applicant stated that the drafting in Articles 20 and 26 was well precedented. Making reference to of the EM [REP1-006, Paragraphs 87 and 92] the Applicant explained that the flexibility to acquire rights or impose restrictive covenants across any of the Order land, and not just the plots included in Schedule 7, is required because it enables the undertaker to reduce the amount of land which would otherwise be subject to outright acquisition under Article 18 where that may be possible. Acquisition of rights was only anticipated in plots shown in blue on the Land Plans [AS-002], primarily for the main cable route and mitigation land. The Applicant

insisted that Article 26 did provide an ability to acquire rights over land subject to TP but was a fallback provision to ensure deliverability of the authorised project, including service diversions, should, for example, service diversions be required outside the main cable corridor. The Applicant went on to say that any such acquisition would be compensable in line with the Compensation Code. The Applicant also confirmed that all affected land and rights holders had been consulted on the application [REP1-038, Q1.11.3.8 and Q1.11.3.9].

28.10.11. Later the Applicant proposed some related changes to the drafting of the dDCO: for Article 26(8) the Applicant removed sub-paragraphs (a) and (b) and explained that they were not necessary given the undertaker would not need additional rights over plots which are listed in Schedule 9 – Land of which only temporary possession. For Article 20(3), the Applicant added drafting to cross reference Article 21 and 28 and to the BoR [EV-069] [EV-073] [REP3-113].

28.10.12. The ExA asked APs and the Applicant if the provision in Article 26(2) for 14 days' notice period was adequate to prepare for TP. The ExA also asked the Applicant if there would be implications to the construction programme and viability of the Proposed Development if the notice period was increased [PD-010, Q1.11.3.9] [EV-031, 16.v]. The NFU, on behalf of its members, states that 14 days' notice period would not be enough and requested that the period was increased to 28 days [REP1-122]. The Applicant amended the notice period to 28 days in Article 26 [EV-069] [EV-073] [REP3-113].

ExA's reasoning

28.10.13. In line with the concerns the ExA expressed in the Examination, the amendments to Article 26(8) define the powers in that Article to ensure that the undertakers would not be able to impose undefined new permanent rights on land that is meant for TP only.

28.10.14. Related to that, the ExA also welcomes the Applicant's changes to Article 20(3). However, having considered it further, the ExA is not fully satisfied that the Applicant's proposed amendments restrict powers to acquire rights or impose restrictive covenants in 20(1) and 20(2) to plots identified in Schedule 7 only. To restrict the widely drawn powers in the ExA has proposed a further amendment to Article 20(3) in the rDCO:

*(3) Subject to the provisions of this paragraph, article 21 (private rights over land), **article 26 (temporary use of land for carrying out the authorised project)** and article 28 (statutory undertakers), in the case of the Order land specified in column (1) of Schedule 7 (land in which only new rights, etc. may be acquired), the powers of compulsory acquisition conferred **under paragraph (1) and paragraph (2) by this Order** are limited to the acquisition by the undertaker referred to in the corresponding entry in column (2) of that Schedule of such new rights and the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule and as described in the book of reference.*

28.10.15. Since the Applicant has not seen the proposed amendment, the SoS may wish to consult with the Applicant on this matter. Subject to the proposed change in the rDCO, the ExA is satisfied that the drafting of Articles 20 and 26 are tightly defined and in line with the BoR and Land Plans.

Justification for the Term of the Order to be in Perpetuity

28.10.16. Several IPs, notably NFU [RR-057] queried why the Applicant was seeking a term in perpetuity for the Order, and why could it not be a term of 99 years. NFU explained that the rights sought by the Applicant should be time limited and seeking rights in

perpetuity is excessive, nor required for the Proposed Development and so not in the public interest. NFU claimed that it had reached agreement on five recent schemes where developers for offshore wind in East Anglia and East Yorkshire, such as Triton Knoll, to have agreed time limited rights for 99 years. Although NFU also stated that the agreement was reached outside the DCO. NFU stated that the life of the Proposed Development is limited on account of the lease with the Crown Estate, the operational life of the Proposed Development, and licenses granted to Offshore Electricity Transmission Owners (OFTO). As such, should the Applicant need to extend the Term this should be undertaken through negotiations as it would be with the Crown Estate and other parties. [EV-069] [EV-073] [REP3-136] [REP5-061].

- 28.10.17. The ExA explored this seeking further evidence from NFU and further justification from the Applicant. The ExA asked the NFU to provide evidence that 99 years term for the dDCO and aspects of CA has been secured in Triton Knoll, the reasons why this was agreed, and the mechanism used to secure the agreement. The ExA also asked the Applicant, to provide justification for why you may need any of the provisions in the dDCO, especially land acquired through CA, for any more than 99 years, with reference to s122 of the PA2008 [PD-010, Q1.8.2.5] [EV-031, 16.i] [PD-012, Q2.8.2.1].
- 28.10.18. The Applicant stated that it was not aware of any case where CA rights had been granted for a limit on the term of rights and that the precedence was overwhelmingly in favour of acquisition of rights in perpetuity. The Applicant pointed to the lack of detail in the submissions made by NFU and no context or documentation to understand the legal effect. The Applicant reiterated the justification provided in the SoR and related documents to make the case for CA in line with s122 of the PA2008 [REP1-036] [REP3-113].
- 28.10.19. NFU responded to say that the terms was reached voluntary agreements outside the Examination process, but did not provide any further substantive evidence [REP3-136]. The matter remained in dispute at the close of the Examination.

ExA's Reasoning

- 28.10.20. First, the ExA has found no provision in PA2008 or the associated legislation providing for the CA of land or rights that empowers the creation by compulsion of an interest in land for a term of years. S122 and s123 of the PA2008 and the CA guidance, require justification in terms of the extent of land being acquired and the purpose for which it is acquired. There is no legislative requirement for the justification to demonstrate or justify the duration of acquisition.
- 28.10.21. Second, in the absence of any evidence in Examination to the contrary, it is safe for the ExA to agree with the Applicant that that the precedence was overwhelmingly in favour of acquisition of rights, with no limit on the term of the acquisition.
- 28.10.22. Third, while NFU might have been able to secure a limited term through voluntary agreement in the case of Triton Knoll, in the absence of any evidence of the agreement, or a comprehensive context, the ExA has no substantive evidence to rely on.
- 28.10.23. In light of the above reasons, the ExA finds no reason to seek a time limited term for the Order. No changes are proposed to the rDCO.

28.11. AVAILABILITY AND ADEQUACY OF FUNDING

- 28.11.1. In considering the adequacy of funding, the ExA had regard to NPS EN1, Paragraph 4.1.9: *"In deciding to bring forward a proposal for infrastructure development, the*

applicant will have made a judgement on the financial and technical viability of the proposed development, within the market framework and taking account of Government interventions. Where the IPC considers, on information provided in an application, that the financial viability and technical feasibility of the proposal has been properly assessed by the applicant it is unlikely to be of relevance in IPC decision making.”

- 28.11.2. The Applicant submitted a Funding Statement [APP-027], which was subsequently amended and updated [REP3-017]. These statements set out the different project companies involved and the undertakers. The Applicant explained the sources of funding and both the estimated project cost and sum of compensation claims.
- 28.11.3. Attached at Appendices includes with the Statements are the Equinor 2020 Annual Report and Form 20-F for Equinor ASA for the year ending 31 December 2020. This report includes the consolidated financial statements of the Equinor Group and also for parent company Equinor ASA. There is also the Director’s Report and Financial Statement for Equinor New Energy Limited, dated 31 December 2021, which includes accounts. The final Appendix is a Property Cost Estimate Report by Dalcour Maclaren for both SEP and DEP, covering acquisition of freehold land or land rights; compensation arising from temporary works; blight; loss of development; for example.
- 28.11.4. Based on 2021 calculations, the estimated costs of SEP and DEP was approximately £2-4 billion. Compensation claims associated with compulsory acquisition for SEP and DEP if built in-isolation was estimated to be in the region of £40,194,898. However, it was also estimated that any concurrent or sequential build scenario would result in a lower cost than double that figure, i.e. less than £80,389,796.
- 28.11.5. The adequacy, source and availability of the funding required for both acquiring the land for which the land is required and implementing the Proposed Development was questioned by the ExA [Q2.8.1.1, PD-12] [EV-031] [EV-068] [EV-072]. The revised Funding Statement followed these questions with revised information.
- 28.11.6. There was later in the Examination an Addendum to the Funding Statement in relation to the Change Request [AS-060]. This concluded that there were no amendments required to the Funding Statement as a result of the material change.

Sources of funding for implementation of the Proposed Development and to fund CA

- 28.11.7. The Funding Statement [REP3-017] explained that there would be the necessary funding resources available to develop all Development Scenarios of the Proposed Development. The Applicant sets out that the Agreement for Lease for the Proposed Development from The Crown Estate was signed by Scira Extension Limited (SEL) and Dudgeon Extension Limited (DEL), the two companies named as undertakers in the dDCO [REP8-005]. SEL is owned wholly by the Applicant, whereas DEL is owned by Equinor New Energy Limited (35%), Masdar Offshore Wind UK Limited (35%), and CP Power (UK) Limited (30%) [REP3-107]. The Applicant, Equinor New Energy Limited is, via a series of 100 per cent owned subsidiary companies registered in Norway, wholly owned by Equinor ASA, which is majority owned by the Norwegian Government. ExA also notes that Masdar Offshore Wind UK Limited is ultimately owned by the Government of Abu Dhabi [REP3-107].
- 28.11.8. The Funding Statement [REP3-107] goes on to explain that if necessary, subject to board approval, the Applicant could obtain further resources from Equinor. As of December 2021, Equinor has fixed assets that equate to £49,562,658,400 and total current assets of £23,262,872,800 respectively.

28.11.9. The Applicant has also included in Article 40 of the dDCO [REP8-005] a provision which requires SEL and DEL to refrain from exercising the powers of compulsory acquisition granted by the DCO until guarantees or alternative forms of security in respect of the liability of the undertakers to pay compensation are in place. Articles 40(8) and 40(9) provide an exception to the need for SEL and DEL to provide a guarantee or alternative form of security. SEL and/or DEL would need to provide the SoS with financial information sufficient to demonstrate that the relevant company has appropriate funding in place to meet any liability to pay compensation without the need for a guarantee or alternative form of security to be put in place. In those circumstances, no guarantee or alternative form of security would be required [REP3-107].

ExA Reasoning

28.11.10. From this Statement [REP3-107] it is sufficiently apparent to the ExA that the Applicant, as a common owner for both SEP and DEP, and Equinor, as the ultimate parent company of the Applicant, have substantial assets. Together with the Applicant and the other shareholders of DEL, there is the ability to procure funds to meet the liabilities for both SEP and DEP of the Proposed Development.

28.11.11. The ExA has no reason to believe that there would not be the financial resources to fund the Proposed Development, whatever the scenario that is taken forward, or that the CA liabilities could not be funded. Furthermore, Article 40 of the dDCO further provides reassurance to the ExA that the funding would be in place to pay compensation where necessary.

28.12. PUBLIC SECTOR EQUALITY DUTY (PSED)

28.12.1. PSED under the Equality Act 2010 is applicable to the ExA in the conduct of this Examination and reporting and to the SoS in decision-making. In compliance with its duties under PSED, the ExA invited representation in a range of difference methods: written format, online via video link, and in person at venues with adequate accessibility provisions. In the ExA's knowledge there were no persons with Protected Characteristics that wished to participate in the Examination and were not able to.

28.12.2. In that regard the ExA believes it has fulfilled its duties under PSED.

28.13. HUMAN RIGHTS

28.13.1. The Human Rights Act 1998 (HRA1998) includes provisions in the form of Articles, which aim to protect the rights of the individual. The relevant articles are:

- 1) Article 1 of The First Protocol – protects the rights to peaceful enjoyment of possessions.
- 2) Article 6 – entitles those affected by compulsory powers to a fair and public hearing.
- 3) Article 8 – protects the right of the individual to respect for their private and family life, their home and their correspondence.

28.13.2. Paragraph 10 of the CA Guidance states that the SoS must ultimately be persuaded that the purposes for which an order authorises the CA of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the ECHR.

- 28.13.3. The Applicant's case to justify interference with Human Rights is set out in the SoR [APP-028, Section 13]. The Applicant states that given the inclusion of the CA powers in the dDCO, there is a possibility that Articles 1 and 8 of persons who hold interests in the Order Land will be infringed.
- 28.13.4. With respect to Article 1 of The First Protocol, the Applicant argues that the need for the Proposed Development in line with the established urgent need in NPS EN1. The Applicant also makes the case that the Proposed Development is within the public interest given the significant benefits it would bring. As such, the public benefit would justify interference with the Human Rights of the persons who hold an interest in the Order Land.
- 28.13.5. The Applicant also stated that it had limited the extent of the Order Land and is seeking to agree the acquisition of land and rights with landowners through voluntary agreement. However, not all the land needed for the Proposed Development may be acquired through voluntary agreement and without the ability to use the CA powers, it may not be possible for the Proposed Development to be built. In such a case the public benefits would not be realised.
- 28.13.6. In relation to Article 6 rights, the Applicant stated that those who are affected have the ability to engage with the Application, either through formal consultation at the pre-application stage or by making representations during the Examination. The Applicant also highlights that those who are affected also have the right to claim compensation in accordance with the statutory compensation code. In the event the DCO is granted, a person affected has the right to challenge the decision via a claim for judicial review if there are grounds for claim.

ExA Reasoning

- 28.13.7. The ExA's overall conclusion relating to Articles 1 of the HRA1998 is that the purpose for which the CA of the land within the Order limits are being sought, is legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.
- 28.13.8. In respect of Article 6, the ExA concludes that the process of Examining this application, including the opportunities to submit representations, a series of Written Questions and the opportunities to be heard at Hearings, all mean that those whose rights may be affected have been given access to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

28.14. CONCLUSIONS

Land to which authorisation of CA can relate s123 of PA2008

- 28.14.1. The ExA concludes that in accordance with s123, there is appropriate provision for CA in the Applicant's dDCO. The ExA highlights that related to CA and TP provision, the ExA has proposed changes to Articles 20 in the rDCO. The ExA has proposed the changes for the reasons set out, but in general terms to further tighten the compliance of the provisions of the Order with s122 of PA2008.
- 28.14.2. In accordance with the requirement in the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009, the Applicant has included and updated through the Examination as required, a SoR, a funding statement, Land Plans and a BoR.

Consultation with parties in accordance with s42 and s44 and APs' objections to CA

28.14.3. In accordance with s42 and s44 of PA2008, the Applicant has consulted those with interests in relevant land before the application was made. With the account provide in the CAS, and the individual interaction evidenced through the course of the Examination, the ExA is satisfied that the Applicant has provided evidence of ongoing dialogue between the parties to reach a negotiated agreement.

28.14.4. The ExA relies on the fact that the representations made in the Examination did not express an objection to the CA of their interests in the Order Land. However, they raised several concerns which the ExA has considered in this Chapter and in several other Chapters in this Report. The ExA is satisfied that the issues have been thoroughly examined. Based on the conclusions drawn in other Chapters in this Recommendation Report, the ExA can conclude that the identified adverse effects would be necessary to deliver the Proposed Development and would be mitigated to any possible extent.

Crown Land in accordance with s135

28.14.5. The ExA is satisfied with the evidence in Examination confirming Crown Consent from The Crown Commissioners and The Forestry Commission. However, Crown consent has not been given for the CA of Crown Land owned by SoS Defence and SoS Transport, and the ExA finds that the Proposed Development would not be deliverable to the extent assessed in the ES, without the Crown plots held by SoS Defence and SoS Transport.

28.14.6. In the absence of requisite consents from the relevant Crown Authorities at SoS Defence and SoS Transport, the ExA concludes that the Order cannot authorise the CA of those plots of land and/ or interests which are Crown land because s135(2) has not been met.

28.14.7. If the SoS is minded to grant consent for the Proposed Development, the ExA recommends that prior to the issuing their decision, the SoS would need to obtain consents from the relevant Crown Authorities at SoS Defence and SoS Transport, for the Crown land consistent with the BoR [REP8-014, Part 4] and in accordance with s135(1) of the PA2008.

Public Open Space

28.14.8. Given the limited extent of disturbance on open space land, and given that no objections were received from any of the identified APs, the ExA is satisfied that the effects of the Proposed Development on public open space would be temporary and short term only. The ExA therefore concludes that the test set out in s132(3) of the PA2008 is satisfied. Consequently, the ExA also concludes in agreement with the Applicant's approach to not include any replacement land within the Order limits.

The NT Land

28.14.9. In light of an outstanding objection from the NT the CA of the NT land at Weybourne Woods would be subject to special parliamentary procedures. However, given the closing statements by both parties states that they have reached agreement in principle, the ExA recommends that if the SoS is minded to grant consent, the SoS would need to seek an update from the Applicant and NT, confirming whether or not the objection from NT has been withdrawn.

Statutory Undertakers

28.14.10. For all the SUs discussed in this Chapter where there are no extant objections to the Proposed Development, the ExA concludes that s127 of the PA2008 is not engaged. The ExA also concludes that the rights sought by the Applicant from these SUs,

would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of PA2008.

- 28.14.11. While no objection from received from the SUs: Shell U.K. Limited, Harbour Energy, and Independent Oil and Gas, the Applicant has stated in its update that negotiations are ongoing. The SoS may wish to confirm with these parties if the outcome of the negotiations would have any impact on the SUs position with respect to the suitability of the standard provisions.
- 28.14.12. The ExA also concludes that the rights sought by the Applicant from the other SUs, would be necessary for the purposes of the Proposed Development, and therefore the dDCO accords with s138 of PA2008; these are: NGT, NGET, NH; National Rail, Orsted in relation to Hornsea 3 and Perenco. In light of the outstanding objections from these SUs, the ExA concludes that s127 of the PA2008 is engaged. If the SoS is minded to grant consent, SoS would need to confirm agreement on matters relating to PPs prior to granting consent.
- 28.14.13. For NCC as promotor of the NWL the ExA has limited information and evidence before it, and cannot conclude if s138 and s127 apply. Given the lack of input from the Applicant, the ExA finds the inclusion of PP as proposed by NCC, in the rDCO would not be reasonable.
- 28.14.14. For Orsted in the case of Hornsea 4, on account of the information before it, the ExA finds that s138 and s127 do not apply. The ExA finds that inclusion of PP proposed by Hornsea 4 in the rDCO would not be reasonable. However, given the joint statement from the parties which was positive and anticipated an agreement, the SoS may wish to seek an update on the parties.

Adequacy of funding

- 28.14.15. From the information provided in the Examination, the ExA that the Applicant, as a common owner for both SEP and DEP, has substantial assets to meet the liabilities for both SEP and DEP of the Proposed Development. Furthermore, Article 40 of the dDCO further provides reassurance to the ExA that the funding would be in place to pay compensation where necessary.

Human Rights

- 28.14.16. The ExA has had regard to the provisions of the HRA1998. These are qualified rights and the weight of national policy in favour of the Proposed Development and the public benefits arising from the Proposed Development means that the interference in the human rights of affected owners and occupiers would be proportionate and justified in the public interest. The ExA is further reassured that the Applicant is seeking to acquire the minimum possible rights and interests that would be needed to construct, operate and maintain the Proposed Development.

Conclusion with regard to s122 and overall conclusion

- 28.14.17. With regard to s122(3) of PA2008, the condition is that there is a compelling case in the public interest for the land to be acquired compulsorily, and that the public benefit that can be derived from the CA must outweigh the private loss that would be suffered by those with interest in the Order land. The case for CA must be justified in its own right and can be considered isolation from the wide consideration of the merits of the Proposed Development. However, in balancing public interest against private loss, there must be a need for the Proposed Development to be carried out for that public interest to be delivered.

- 28.14.18. The ExA must emphasise that its conclusion in Chapter 30 of this Recommendation Report, is that on account of the tests in the Habitats Regulations not being met, the case of Development Consent for the Proposed Development is not made. As such, it is the ExA's conclusions that the case for CA of land, arising from public benefit of the Proposed Development is also not made. It follows, the proposed interference with the human rights of individuals would not be for a legitimate purpose nor in the public interest.
- 28.14.19. Should the SoS disagree with the ExA's findings in relation to the HRA, or if more conclusive evidence that appropriate compensation can be secured is provided after the close of the Examination, and consequently decide to make the Order, then the ExA considers that the private loss would be necessary, justified, proportionate and mitigated as far as possible. Consequently, the interference with the human rights of individuals would be for a legitimate purpose, proportionate and justified in the public interest. The ExA is also satisfied that there is no evidence that the Proposed Development would not accord with the Equality Act 2010.
- 28.14.20. Taking these factors together, subject to resolution of outstanding objections from SUs and the NT, securing consent from all Crown Authorities, and only subject to the Order being made, the SoS can be satisfied that there is a compelling case in the public interest for the CA and other powers sought in respect of the Order land, and the ExA concludes that the Proposed Development would comply with s122(3) of the PA2008.

29. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

29.1. INTRODUCTION

- 29.1.1. This Chapter describes the draft Development Consent Order (dDCO) [APP-024] as applied for and the changes made to it during the Examination. It also describes matters that were not resolved at the close of the Examination, the Examining Authority's (ExA) recommendations on those matters and the corresponding changes that would result, as proposed in the Examining Authority's (ExA) Recommended Development Consent Order (rDCO).
- 29.1.2. The dDCO was identified as a principal issue in the ExA's Initial Assessment of Principal Issues [PD-006, Annex C] for matters relating to the definition and scope of the Proposed Development, consistency, reasonableness and alignment with the Environmental Statement (ES), robustness and effectiveness of the suite of management plans, their implementation and monitoring, scope and content of the draft Deemed Marine Licences (dDML), interaction of the dDCO with other legislated DCOs, other existing infrastructure (offshore and onshore) and other planned projects, including the need and content of protective provisions.

29.2. THE dDCO AS APPLIED FOR

- 29.2.1. The Application included a dDCO [APP-024] and an Explanatory Memorandum (EM) [APP-025]. The dDCO included a number of provisions to enable the construction, operation, maintenance and decommissioning of the Proposed Development, which are summarised here.
- 29.2.2. In Part 1 Preliminary, Articles 1 and 2 set out how the dDCO may be cited, if and when it would come into force and the meaning of various terms used in the Order.
- 29.2.3. In Part 2 Principal Powers, Articles 3 and 4 provide development consent for the Proposed Development and allow it to be carried out and maintained. Article 5 in particular allows the benefit of the Order to be transferred or leased, and provides for each dDML to be transferred as a whole and not leased. Article 6 provides (in reliance on section (s) 120(5)(a) of the Planning Act 2008 (PA2008)) for the disapplication of certain Requirements which would otherwise apply under general legislation. Article 7 provides a defence to the proceedings brought in a magistrates' court under s82(1) of the Environmental Protection Act 1990 (EPA 1990) in relation to certain nuisances set out in s79(1)(g) of EPA1990.
- 29.2.4. In Part 3 Streets, Articles 8 to 13 provide powers in relation to street works, including the ability for the undertaker to be able to carry out works to and within streets, and powers for temporary and permanent stopping up, or to create or improve access.
- 29.2.5. In Part 4 Supplementary Powers, Articles 14 to 17 relate to discharge of water, protective work to buildings, authority to survey and investigate land and removal of human remains.
- 29.2.6. In Part 5 Powers of Acquisition, Articles 18 to 29 provide powers in relation to the Compulsory Acquisition (CA) and Temporary Possession (TP) of land, along with powers in relation to Statutory Undertakers (SU).
- 29.2.7. In Part 6 Operations, Articles 30 contain powers in relation to operation of generating station for both Sheringham Shoal Offshore Wind Farm Extension Projects (SEP) and Dudgeon Offshore Wind Farm Extension Projects (DEP). Article 31 grants the

deemed marine licences (DML) included in schedules 10 to 13 of the Order under Part 4 of the Marine and Coastal Access Act 2009 (MCAA 2009).

29.2.8. In Part 7 Miscellaneous, Articles 32 to 46 relate to several matters, in particular Article 34 and 35 relate to trees and hedgerows, Article 38 provides for various application plans and documents listed to be certified by the Secretary of State (SoS), Article 40 provides for security of funding to cover compensation payable under the Order, Article 41 gives effect to Schedule 14, which contains Protective Provisions (PP) protecting the interests of third parties, and Article 43 governs any disagreement about the provision of the Order. Article 45 is included to provide for the modification of the consent for the existing Dudgeon Offshore Wind Farm (DOW) to reflect the reduced number of turbines in the as built project.

29.2.9. As submitted, the dDCO contained 17 schedules, providing for:

- 1) Schedule 1, includes the description of the authorised development and ancillary works.
- 2) Schedule 2, includes the requirements applying to the authorised development and the procedure for discharging the requirements.
- 3) Schedule 3, sets out those streets which are to be subject to street works.
- 4) Schedule 4 sets out those public rights of way which are to be temporarily stopped up.
- 5) Schedule 5 sets out those streets which are to be temporarily stopped up.
- 6) Schedule 6 sets out details of access points to the works.
- 7) Schedule 7 lists the plots of land within which the undertaker cannot acquire ownership and may only acquire rights, specifying the rights which the undertaker may acquire for each plot.
- 8) Schedule 8 modifies existing compensation legislation to provide for the acquisition of rights and imposition of restrictive covenants as well as acquisition of ownership of the land.
- 9) Schedule 9 lists the plots of land of which the undertaker may only take temporary possession and cannot acquire rights or ownership of the land.
- 10) Schedules 10 – 13 include the four dDMLs, which are organised as follows:
 - Schedule 10 and 11 sets out the dDML for the SEP and DEP generation assets respectively.
 - Schedule 12 and 13 sets out the dDML for the SEP and DEP transmission assets respectively; and include authorisation for the integrated offshore works in the event that Development Scenario 4 is progressed.
 - Part 1 of the dDMLs provides interpretation of certain words and phrases, details of the licensed activities, grid coordinates for those works, the time period, provisions relating to the transfer of a marine licence to another person, and that the approval process in relation to the Marine Management Organisation (MMO) is in line with relevant documents and plans.
 - Part 2 contains the conditions relating to that dDML.
- 11) Schedule 14 includes PPs for the protection of, in Part 1: utilities: electricity, gas, water and sewerage undertakers, in Part 2: operators of electronic communications code networks, in Part 3: Network Rail Infrastructure Limited, in Part 4: the Environment Agency, in Part 5: the Water Management Alliance, in Part 6: Anglian Water Services Limited, in Part 7: National Grid Gas PLC, in Part 8 National Grid Electricity Transmission PLC, in Part 9: Cadent Gas Limited, in Part 10: Eastern Power Networks PLC, in Part 11: Orsted Hornsea Project Three (UK) Limited, and in Part 12 Vattenfall Wind Power Limited.
- 12) Schedule 15 provides an arbitration process.
- 13) Schedule 16 lists hedgerows and hedgerows to be removed for the purposes of carrying out the authorised project.

- 14) Schedule 17 secures compensatory measures to ensure the overall coherence of the national site network, including species specific compensation, implementation and monitoring plan.

29.3. THE EXAMINATION OF THE dDCO AND ITS REVISIONS

29.3.1. The Application included a dDCO [APP-024] and an EM [APP-025] when it submitted the application. The ExA examined the provisions of the dDCO at the following Hearings:

- 1) Issue Specific Hearing (ISH) 1 on 18 January 2023 [EV-013] [EV-017];
- 2) ISH2 on 20 January 2023 [EV-022] [EV-026];
- 3) ISH3 on 22 March 2023 [EV-038] [EV-043];
- 4) ISH4 on 23 March 2023 [EV-059] [EV-063];
- 5) Compulsory Acquisition Hearing (CAH) 1 on 29 March 2023 [EV-069] [EV-073];
- 6) ISH5 on 30 March 2023 [EV-078] [EV-082]; and
- 7) ISH6 on 31 March 2023 [EV-086] [EV-090].

29.3.2. The ExA examined the provisions of the dDCO through the following rounds of Written Questions (WQ):

- 1) WQ1 issued on 27 January 2023 [PD-010];
- 2) WQ2 issued on 12 April 2023 [PD-012];
- 3) WQ3 issued on 26 May 2023 [PD-017]; and
- 4) WQ4 issued on 29 June 2023 [PD-021].

29.3.3. The ExA issued its commentaries and proposed changes to the dDCO [REP4-003] and the corresponding EM [REP4-007], which were the most recent versions of the two documents in that stage of the Examination. Comments and responses were received from the Applicant and other Interested Parties (IP) on Deadline (D) 5 on 13 June 2023.

29.3.4. The dDCO and EM as submitted with the Application, and all subsequent versions where the Applicant sought to respond to matters raised by the ExA and other parties, are:

- 1) dDCO [APP-024] and corresponding EM [APP-025], submitted with the application;
- 2) dDCO Revision B [AS-009] and corresponding EM Revision B [AS-012], submitted during pre-examination period;
- 3) dDCO Revision C [REP1-003] and corresponding EM Revision C [REP1-006], submitted at D1;
- 4) Without prejudice drafting for part 3 and 4 for Schedule 17 Compensation Measures, submitted at D1 [REP1-005];
- 5) dDCO Revision D [REP2-008] and corresponding EM Revision D [REP2-013], submitted at D2;
- 6) Without prejudice drafting for Schedule 17 Revision B, submitted at D1 [REP2-011];
- 7) dDCO Revision E [AS-055], submitted along with Applicant's second Change Request on 11 April 2023;
- 8) dDCO Revision F [REP3-009] and corresponding EM Revision E [REP3-013], submitted at D3;
- 9) dDCO Revision G [REP4-003] and corresponding EM Revision F [REP4-007], submitted at D4;
- 10) dDCO Revision H [REP5-005] and corresponding EM Revision G [REP5-011], submitted at D5;
- 11) Without prejudice drafting for Schedule 17 Revision C, submitted at D5 [REP5-008];

- 12) dDCO Revision I [REP6-002], submitted at D6;
- 13) dDCO Revision J [REP7-005] and corresponding EM Revision H [REP7-008], submitted at D7;
- 14) dDCO Revision K [REP8-005] and corresponding EM Revision I [REP8-011], submitted at D8; and
- 15) Without prejudice drafting for Schedule 17 Revision D, submitted at D8 [REP8-008].

29.4. CHANGES TO THE dDCO DURING EXAMINATION AND COMPARISON OF DIFFERENCES BETWEEN dDCO AND rDCO

29.4.1. The changes and differences between the Applicant's dDCO as submitted [APP-024], the Applicant's final dDCO [REP8-005] and the ExA's rDCO are highlighted in Table 1, in the following way:

- 1) The provisions where no changes have been proposed have been identified.
- 2) The provisions where only minor changes are proposed, do not have any accompanying explanation.
- 3) The provisions where there was substantive discussion between the Applicant, IPs and the ExA, have accompanying brief explanations, and cross reference to Chapter in the Recommendation Report, where those matters are reported fully.
- 4) Comparison is provided between the dDCO and the rDCO. These have been highlighted and accompanied with explanation and cross-references.

29.4.2. It would be helpful to refer to the Applicant's final dDCO [REP8-005], the EM [REP8-013], schedule of changes to the dDCO [REP8-007], and the ExA's rDCO, while reading this Chapter. (The Applicant's final dDCO with all track changes [REP8-010] is also a helpful document indicating the location and nature of all the changes, however, it has several referencing errors and must be read in conjunction with the final dDCO [REP8-005]).

Table 11: Changes made to Applicant's dDCO and Comparison between Applicant's dDCO and ExA's rDCO

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
PART 1 PRELIMINARY		
Article 1 Citation and commencement		
1)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 2 – Interpretation		
2)	New definition for design and access statement added. To correspond with the addition of the design and access statement to the list of documents to be certified in Article 38 and Schedule 18 The ExA has included this change in the rDCO.	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
3)	Changes to the definition of horizontal direction drilling and removal of reference to other trenchless construction techniques. The ExA has included this change in the rDCO.	Chapter 24 of this Recommendation Report
4)	In line with a discussion at ISH2 [EV-019], minor amendments to remove of the definition of phase. The ExA has included this change in the rDCO.	
5)	In response to the MMO [RR-053], minor change to correctly define statutory historic body. The ExA has included this change in the rDCO.	
6)	Revision to the definition of operational drainage plan to operational drainage strategy. The ExA has included this change in the rDCO.	
7)	Amendment to the definition of commence to exclude pre-commencement works. A consequent new definition of pre-commencement works added. The ExA has included these changes in the rDCO.	Chapter 25 of this Recommendation Report
8)	New definition of " <i>intrusive</i> " has been added, with the definition of " <i>intrusive activities</i> " retained only with the dDMLs. The ExA has included this change in the rDCO.	
9)	New definition has been added to include reference to the Environment Agency, to capture any successors in name. The ExA has included this change in the rDCO.	
10)	New definition added for the Food Enterprise Park phase 2 site following the Applicant's second Change Request. The ExA has included this change in the rDCO.	Chapter 4 of this Recommendation Report
11)	New definition has been added to include reference to National Highways (NH), to capture any successors in name. The ExA has included this change in the rDCO.	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
12)	New definition has been added to include reference to Natural England (NE), to capture any successors in name. The ExA has included this change in the rDCO.	
13)	New definition of onshore cable corridor added in conjunction with changes to Requirement (R) 10. The ExA has included this change in the rDCO.	Chapter 4 of this Recommendation Report
14)	Minor change where new definition of Strategic Road Network (SRN) added. The ExA has included this change in the rDCO.	
15)	New definition added for Supplemental Environmental Information to support the Applicant's second Change Request, so as to ensure such information becomes certified under Article 28. The ExA has included this change in the rDCO.	Chapter 4 of this Recommendation Report
16)	The word " <i>separately</i> " has been removed from the definition of scenario 1. The ExA has included this change in the rDCO.	Chapter 25 of this Recommendation Report
17)	The definition of Order limits has been amended to clarify those parts that are seaward of Mean High Water Springs. The ExA has included this change in the rDCO.	
PART 2 PRINCIPAL POWERS		
Article 3 – Development consent etc. granted by the Order		
18)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 4 – Maintenance of authorised development		
19)	No changes proposed in either the Applicant's final dDCO or the ExA' rDCO.	
Article 5 – Benefit of the Order		
20)	A new sub paragraph (3) added to confirm that any DML should be transferred as a whole and not in part. Paragraph (6) was consequently amended to require	Chapter 8 of this Recommendation Report

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
	consultation with the MMO before giving consent to transfer the whole of any DML. The ExA has included these changes in the rDCO.	
21)	A new sub paragraph (8)(iv) added for the benefit of NH in relation to installing ducts under the SRN. The ExA has included this change in the rDCO.	Chapter 28 of this Recommendation Report
Article 6 – Disapplication and modification of legislative provisions		
22)	Minor amendment to sub-paragraph (1)(a) to include reference to the Environmental Permitting (England and Wales) Regulations 2016 as flood risk activities. The ExA has included this change in the rDCO.	
Article 7 – Defence to proceedings in respect of statutory nuisance		
23)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
PART 3 STREETS		
Article 8 – Street works		
24)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 9 – Application of the 1991 Act		
25)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 10 – Temporary stopping up of streets		
26)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 11 – Temporary stopping up of public rights of way		
27)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 12 – Access to Works		
28)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 13 – Agreements with street authorities		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
29)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
PART 4 SUPPLEMENTAL POWERS		
Article 14 – Discharge of water		
30)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 15 – Protective work to buildings		
31)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 16 – Authority to survey and investigate the land		
32)	Sub-paragraph (2) amended to require the Applicant to give notice of proposed investigations on land and details of what work is going to be undertaken. The ExA has included these changes in the rDCO.	Chapter 28 of this Recommendation Report
Article 17 – Removal of human remains		
33)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
PART 5 POWER OF ACQUISITION		
Article 18 – Compulsory acquisition of land		
34)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 19 – Time limit for exercise of authority to acquire land compulsorily		
35)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 20 – Compulsory acquisition of rights		
36)	Changes in the drafting of sub-paragraph (3) to better define powers. The ExA has included this change in the rDCO.	Chapter 29 of this Recommendation Report
37)	Proposed changes in the rDCO The ExA has proposed further amendments to sub-paragraph 3 to restrict powers to acquire rights or	Chapter 29 of this Recommendation Report

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
	impose restrictive covenants in 20(1) and 20(2) to plots identified in Schedule 7 only. This has been done by adding a cross reference to Article 26 and creating a bar to the powers in Article 20(1) and 20(2) by cross referencing sub-paragraphs (1) and (2).	
Article 21 – Private rights over land		
38)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO. The ExA has included these changes in the rDCO.	
Article 22 – Application of the 1981 Act		
39)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 23 – Acquisition of subsoil or airspace only		
40)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 24 – Modification of Part 1 of the 1965 Act		
41)	Minor change in the way the Proposed Development is referenced. The ExA has included this change in the rDCO.	
Article 25 – Rights under or over streets		
42)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 26 – Temporary use of land for carrying out the authorised project		
43)	Several changes including: inserting the word 'only' in sub-paragraph (1)(a)(i), changing the notice period from 14 days to 28 days in sub-paragraph (2), and amendment of sub-paragraph (8) to clarify the scope of CA powers in relation to creating new rights or imposing new covenants. The ExA has included this change in the rDCO.	Chapter 28 of this Recommendation Report
Article 27 – Temporary use of land for maintaining the authorised project		
44)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
Article 28 – Statutory Undertakers		
45)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 29 – Recovery of costs of new connections		
46)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
PART 6 OPERATIONS		
Article 30 – Operation of generating station		
47)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 31 – Deemed Marine Licences under the 2009 Act		
48)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
PART 7 MISCELLANEOUS AND GENERAL		
Article 32 – Application of landlord and tenant law		
49)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 33 – Operational land for purposes of the 1990 Act		
50)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 34 – Felling or lopping of trees and removal of hedgerows		
51)	Minor correction to reference Schedule 16 as opposed to Schedule 15. Further minor amendments within subparagraph (4)(a) to correctly reference Schedule 16. The ExA has included this change in the rDCO.	
Article 35 – Trees subject to tree preservation orders		
52)	Minor typographical amendments. The ExA has included this change in the rDCO.	
Article 36 – Saving provisions for trinity house		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
53)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 37 – Crown rights		
54)	Title change from Her Majesty to His Majesty. Minor typographic errors corrected. The ExA has included these changes in the rDCO..	
Article 38 – Certification of plans and documents		
55)	Crown land plan and the design and access statement added to the list of certified documents. Additionally, after discussion at ISH1 and ISH5, the full list of documents has been moved into a new Schedule 18. The ExA has included this change in the rDCO.	
Article 39 – Abatement of works abandoned or decayed		
56)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 40 – Funding		
57)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 41 – Protective Provisions		
58)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 42 – Service of Notices		
59)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 43 – Arbitration		
60)	Sub-paragraph (1) amended to account for the position of Trinity House as secured under Article 36. The ExA has included this change in the rDCO.	
Article 44 – Procedure in relation to approvals, etc. under requirements		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
61)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 45 – Modification of DOW section 36 consent		
62)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
Article 46 - Compensation		
63)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
SCHEDULE 1		
PART 1 – AUTHORISED PROJECT		
64)	Minor changes in response to submission from the MMO [RR-052], Paragraph 1 amended to add sub-paragraph (f) regarding the disposal of drill arisings from foundation drilling; works 2A and 2B amended to include reference to subsea in-field cables; minor adjustment to some of the coordinates in the table. The ExA has included these changes in the rDCO.	
65)	Rows 271 to 280 inclusive in table were added in after erroneously being excluded. Some minor corrections made in rows 402 to 805. The ExA has included this change in the rDCO.	
66)	Other amendments to remove Work No 21B as a result of Applicant's first Change Request regarding the removal of the substation site drainage option. The ExA has included this change in the rDCO.	Chapter 4 of this Recommendation Report
PART 2 – ANCILLARY WORKS		
67)	Sub-paragraph (d) added to include reference to the temporary deposit and removal of monitoring equipment. The ExA has included this change in the rDCO.	
SCHEDULE 2 – REQUIREMENTS		
PART 1 – REQUIREMENTS		
R1 Time limits		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
68)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R2 Wind turbine generator dimensions		
69)	Sub-paragraphs (1)(e) and (f) added to impose a cap on the number of wind turbines able to be constructed. The ExA has included this change in the rDCO.	Chapter 15 of this Recommendation Report
R3 and R4 Wind turbine generator foundations		
70)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R5 Offshore Platform Dimensions		
71)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R6 Offshore Platform Foundations		
72)	In response to ExA's proposed changes to the dDCO [PD-018], minor amendment to correct to the amount of scour protection for the offshore substation platform. The ExA has included this change in the rDCO.	
R7 Cables and cable protection		
73)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R8 Offshore decommissioning		
74)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R9 Scenarios and phases of authorised development		
75)	Change has been made to ensure proper written notification of which construction scenario the Applicant would be pursuing prior to commencement. The ExA has included this change in the rDCO.	Chapter 4 and 29 of this Recommendation Report
R10 Detailed design parameters onshore		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
76)	A new sub-paragraph (5) added to include reference to the design and access statement, to incorporate fencing details and an independent design review mechanism and to include the need for the Applicant to undergo an independent design review if requested by the Local Authority (LA). The ExA has included this change in the rDCO.	Chapter 6 of this Recommendation Report
77)	New sub-paragraph (9) added to limit the width of the onshore cable corridor in the event of scenarios 1a or 1b. The ExA has included these changes in the rDCO.	Chapters 4 and 29 of this Recommendation Report
R11 Provision of landscaping		
78)	Minor amendment to sub-paragraph 2(e) to ensure tree protection works are carried out in full accordance with relevant regulations and British Standards. The ExA has included this change in the rDCO.	
79)	Minor amendment in sub-paragraph (5)(f) amended to include proposals for reinstatement. The ExA has included this change in the rDCO	
R12 Implementation and maintenance of landscaping		
80)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R13 Ecological management plan		
81)	Minor amendment made to capture works affecting potential wetland habitat. Minor amendment to change reference of Statutory Nature Conservation Body (SNCB) to NE. The ExA has included these changes in the rDCO.	
82)	Change relating to the pre-commencement controls	Chapter 24 of this Recommendation Report
R14 Fencing and other means of enclosure		
83)	In response to ExA's proposed changes to the dDCO [PD-018], change to require permanent fencing to be	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
	<p>maintained until the point where the relevant onshore works to which the fencing relates is decommissioned.</p> <p>No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.</p>	
R15 Traffic and Transport		
84)	<p>Clarification and distinction made between the roles of Norfolk County Council (NCC) and NH.</p> <p>The ExA has included these changes in the rDCO.</p>	
85)	<p>Proposed change in the rDCO</p> <p>In the rDCO, the ExA has proposed insertion of additional wording in sub-paragraph (5) to secure a provision that would not allow the exceedance of maximum daily vehicle trips per link set out in the Outline Construction Traffic Management Plan (OCTMP), Annex A.</p>	Chapter 18 of this Recommendation Report
R16 Highway Accesses		
86)	<p>Minor amendments in response to matters raised by NCC, to ensure both the LA and relevant highway authority (HA) are involved in the discharge process. Clarification and distinction made between the roles of NCC and NH.</p> <p>The ExA has included this change in the rDCO.</p>	
R17 Operational Drainage Strategy		
87)	<p>Amendment to sub-paragraph (3) in respect of providing adequate maintenance.</p> <p>The ExA has included this change in the rDCO.</p>	
88)	<p>In sub-paragraphs (1) and (2), the removal of Works Nos 21A and 21B, alongside removal of the term relevant sewerage and drainage authorities.</p> <p>The ExA has included this change in the rDCO.</p>	Chapters 4 and 22 of this Recommendation Report
89)	<p>Minor amendment to sub-paragraph (1) in response to matters raised by NCC, to ensure the Local Lead Flood Authority (LLFA) and the LA are involved with the discharge process.</p> <p>The ExA has included this change in the rDCO</p>	
R18 Onshore Archaeology		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
90)	Amendments corresponding to the changes relating to pre-commencement works. The ExA has included this change in the rDCO.	Chapter 24 of this Recommendation Report
R19 Code of Construction Practice		
91)	Addition of sub-paragraph (4) corresponding to the introduction of pre-commencement works. NCC added as a consultee to the discharge of the requirement. Reference to the relevant SNCB has been changed to NE. The ExA has included this change in the rDCO.	Chapter 24 of this Recommendation Report
R20 Construction Hours		
92)	Clarifications around the use of HDD. The ExA has included this change in the rDCO.	Chapter 19 of this Recommendation Report
93)	New sub-paragraphs (5) and (6) added to define emergency works and to notify the relevant LA and HA in advance of any such emergency works taking place. The ExA has included this change in the rDCO.	Chapters 19 of this recommendation Report
94)	Proposed change in the rDCO In the rDCO, the ExA has proposed additional wording to sub-paragraph (2)(a) in order to restrict trenchless crossing works at night are restricted to emergency works only or at the three crossings where the Applicant is required by a statutory undertaker to do so for safety reasons.	Chapters 19 of this recommendation Report
R21 Control of noise during operational phase		
95)	Sub-paragraph (4) has been amended to specifically control and limit noise emissions from the proposed substation(s). The ExA has included this change in the rDCO.	Chapters 19 of this recommendation Report
R22 Control of artificial light emissions		
96)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R23 European protected species: onshore		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
97)	Minor change making reference to NE rather than relevant SNCB. The ExA has included this change in the rDCO.	
R24 Public rights of way strategy		
98)	Minor amendment to ensure both the LA and NCC (as the relevant HA) are involved with the discharge process. The ExA has included this change in the rDCO.	
R25 Restoration of land used temporarily for construction		
99)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R26 Local skills and employment		
100)	Minor amendment following discussion with NCC to clarify that NCC would be the approving authority, with consultation undertaken with the relevant LA. Amendments to ensure appropriate timing of the submission of, consultation upon and approval of the local skills and employment plan. The ExA has included this change in the rDCO.	
R27 Ministry of Defence surveillance operations		
101)	Amendments to reflect that Remote Radar Head Trimmingham may be relocated to Neatishead. The ExA has included this change in the rDCO.	Chapter 13 of this Recommendation Report
R28 Cromer and Claxby Primary Surveillance Radar		
102)	Changes to the wording of conditions, though the Requirement still expresses the need for a primary radar mitigation scheme to be agreed with NATS. The ExA has included this change in the rDCO.	Chapter 13 of this Recommendation Report
R29 Onshore decommissioning		
103)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R30 Notification of generation of power		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
104)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R31 Amendments to approved details		
105)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R32 Contaminated land and groundwater scheme		
106)	Requirement added in full to include reference to any onshore pre-commencement works and to ensure management of any previously unidentified contamination. The ExA has included this change in the rDCO.	Chapter 20 and 24 of this Recommendation Report.
R33 Onshore collaboration		
107)	New R33 added in full to better reflect and secure the co-ordinated working in the event of scenarios 1c, 1d or 2. The ExA has included this change in the rDCO.	Chapter 4 of this Recommendation Report
R34 Pink-footed Geese mitigation		
108)	Proposed change in the rDCO In the rDCO, the ExA has proposed a new R34 to secure Pink Footed Geese (PFG) mitigation prior to the commencement of the Proposed Development. The ExA has adopted the without prejudice wording provided by the Applicant, with amendments to subparagraph (1), securing provisions relating to the geographical definition of the mitigation scheme and the timeframe for the approval process.	Chapter 21 of this Recommendation Report
109)	Proposed change in the rDCO In the rDCO, the ExA has included a new R35 to introduce an obstacle free zone as proposed by the MCA to increase sea room and improve navigational safety.	Chapter 12 of this Recommendation Report
PART 2 – APPROVAL OF MATTERS SPECIFIED IN REQUIREMENTS		
R34 Applications made under requirements		

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
110)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R35 – Further information		
111)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R36 – Provision of information by consultees		
112)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R37 – Fees		
113)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
R38 – Appeals		
114)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
SCHEDULE 3 – STREETS SUBJECT TO STREET WORKS		
115)	Corrections and updates to the table of streets subject to street works. The ExA has included this change in the rDCO.	
SCHEDULE 4 – PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP		
116)	Minor typographical changes. The ExA has included this change in the rDCO.	
SCHEDULE 5 – STREETS TO BE TEMPORARILY STOPPED UP		
117)	Minor typographical changes and other updates made to correct street names. The ExA has included these changes in the rDCO.	
SCHEDULE 6 – ACCESS TO WORKS		
118)	Minor typographical changes and other updates made to correct street names, and access numbers. The ExA has included these changes in the rDCO.	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
SCHEDULE 7 — LAND IN WHICH ONLY NEW RIGHTS, ETC. MAY BE ACQUIRED		
119)	<p>Updates made to correct minor errors arising due to discrepancies with the plans, including removal of Work Nos 21A and B, in relation to the Applicant's second Change Request.</p> <p>The ExA has included these changes in the rDCO.</p>	
SCHEDULE 8 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS		
120)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
SCHEDULE 9 — LAND TO WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN		
121)	<p>Changes have been made as agreed between the Applicant and the SUs. Inclusion of additional plots in some instances and removal of other plots, resulting from the Applicant's second Change Request.</p> <p>The ExA has included these changes in the rDCO.</p>	Chapters 4 of this Recommendation Report
SCHEDULES 10 and 11 — OFFSHORE GENERATION MARINE LICENCES		
SCHEDULE 10 AND SCHEDULE 11		
122)	<p>In response to comments from the MMO [RR-053], various minor edits and insertions made to the definitions within Part 1 Paragraph 1(1) to ensure consistency across all four marine licences and specification of grid coordinates for works.</p> <p>The ExA has included this change in the rDCO.</p>	
123)	<p>Minor edits to Part 1 Paragraph 1(4) in response to comments from the MMO [RR-053], to require all submissions and communications to be sent to the MMO in relation to the dDML and not to Centre for Environment, Fisheries and Aquaculture Science (CEFAS)</p> <p>The ExA has included this change in the rDCO</p>	
124)	Minor edits to Part 1 Paragraph (3) in response to comments from the MMO [RR-053], the insertion subsection (g) to clarify the scope of further associated	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
	development with regards to disposal of drill arisings and the insertion of subsection (h) regarding temporary deposit and removal of monitoring equipment. The ExA has included this change in the rDCO	
125)	Minor edits to Part 1 Paragraph (5) to correct coordinates.	
126)	Minor edit to Part 1 Paragraph 9(1) has become subparagraph 8(2), with additional text confirming any amendment or variation from the approved details may only be given by the MMO. The ExA has included this change in the rDCO	Chapter 8 of this Recommendation Report
127)	In response to comments from the MMO [RR-053], minor amendment to Part 1 Paragraph 9 added regarding provision of correct information to the MMO should there be found to be any misleading or materially false information. The ExA has included this change in the rDCO	
128)	In response to comments from the MMO [RR-053], minor amendment to Part 2 Condition 1 Paragraph 1(1) to state clearly a cap on the number of wind turbine generators allowed by the Order. The ExA has included this change in the rDCO	
129)	Part 2 Condition 4 amended to provide greater clarity and certainty on the timing of a decision on the Development Scenario the Applicant intends to follow, and subsequent commencement actions. The ExA has included this change in the rDCO	Chapter 4 of this Recommendation Report
130)	In response to comments from the MMO [RR-053], amendment to Part 2 Conditions 5, 6, 7(1)(a)(b), 7(10), and 8(1) edited to reflect consistency with other made DCOs. The ExA has included this change in the rDCO	
131)	Minor modifications in Part 2 Condition 11(1) and (7) to cite the correct legislative provisions and the bodies required to be consulted. The ExA has included this change in the rDCO	
132)	Minor revisions and additions to Part 2 Paragraph 13(1)(a), 13(1)(b)(iii), 13(1)(k)	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
	The ExA has included this change in the rDCO	
133)	Part 2 Condition 13(1)(d)(v) added to the dDCO to require a code of conduct to reduce risk of injury to mammals to be agreed. The ExA has included this change in the rDCO	Chapter 8 of this Recommendation Report
134)	Part 2 Condition 13 amended in all subsections to require submissions of various plans and protocols to the MMO at least six months prior to commencement of the licenced activities. The ExA has included this change in the rDCO	Chapter 8 of this Recommendation Report
135)	Part 2 Condition 13(1)(e)(vi) and 13(1) to replace the reference of the National Record of the Historic Environment with the correct naming standard of " <i>Archaeological Data Service</i> ". The ExA has included this change in the rDCO	
136)	Part 2 Condition 13(1)(k) additional provision for a navigation management plan. The ExA has included this change in the rDCO	Chapter 12 of this Recommendation Report
137)	Part 2 Condition 14(3) amended to change the reference to 4 months to 6 months, allowing further time for the MMO to make decisions on discharge submissions. The ExA has included this change in the rDCO	Chapter 8 of this Recommendation Report
138)	Part 2 Condition 15, reference to Condition 14 deleted The ExA has included this change in the rDCO	
139)	Minor revisions and typographical changes in respect of Part 2 Conditions 21 and 22. The ExA has included this change in the rDCO	
140)	Part 2 Condition 20 amended with new sub-paragraph (6)	Chapter 9 of this Recommendation Report
141)	Proposed change in the rDCO In the rDCO, the ExA has proposed a further sub-paragraph (7) to Condition 20 to secure remedial measures, if monitoring identified effects worse than those anticipated in the ES.	Chapter 9 of this Recommendation Report

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
142)	Part 2 Conditions 23 added on sediment sampling. The ExA has included this change in the rDCO	Chapter 11 of this recommendation Report
143)	Part 2 Condition 24 added to ensure collaboration between undertakers, and subsequently corrected to remove references to the undertaking companies of SEL and DEL. The ExA has included this change in the rDCO	Chapter 4 of this Recommendation Report
144)	Proposed change in the rDCO In the rDCO, the ExA has included Condition 25 to introduce an obstacle free zone as proposed by the MCA to increase sea room and improve navigational safety.	Chapter 12 of this Recommendation Report
SCHEDULES 12 AND 13 – OFFSHORE TRANSMISSION MARINE LICENCES		
145)	Minor revisions and amendments to the definitions within Part 1 Paragraphs 1(1) and 1(4) for consistency and clarity purposes. The ExA has included this change in the rDCO	
146)	Updated coordinates tables across Schedules 12 and 13 to address inaccuracies in them and to match the Works Plans (Offshore) (Revision D) The ExA has included this change in the rDCO.	
147)	In response to comments from the MMO [RR-053], amendment to Part 1 Paragraph 3 of Schedule 12, the insertion subsection (g) to clarify the scope of further associated development with regards to disposal of drill arisings and the insertion of subsection (h) regarding temporary deposit and removal of monitoring equipment. The ExA has included this change in the rDCO	
148)	In respect of Part 1 Paragraph 3 of Schedule 13, the insertion of <i>“intrusive and activities and non-intrusive”</i> to ensure consistency across all dDMLs. The ExA has included this change in the rDCO	
149)	In response to comments from the NE [RR-063], amendment to Part 1 Paragraph 5 updated with rows	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
	of coordinates initially missed off when the first draft of the Order was completed. The ExA has included this change in the rDCO	
150)	In response to comments from the MMO [RR-053], amendment to Part 1 Paragraph 10(1) has become sub-paragraph 9(2), with additional text confirming any amendment or variation from the approved details may only be given by the MMO. The ExA has included this change in the rDCO.	
151)	Part 2 Condition 3 amended to provide greater clarity and certainty on the timing of a decision on the Development Scenario the Applicant intends to follow, and subsequent commencement actions. The ExA has included this change in the rDCO	Chapter 4 of this Recommendation Report
152)	Part 2 Conditions 4, 5, 6(1)(b) amended for consistency with other made DCOs and to ensure correct terminology used, typographical amendments also made. The ExA has included this change in the rDCO	
153)	In response to comments from the MMO [RR-053], amendment to Part 2 Condition 6(9) amended for minor typographical errors and to include reference to the monitoring plan required under Condition 12. The ExA has included this change in the rDCO	
154)	In response to comments from the NE [RR-063], amendment to Part 2 Condition 6 (10) to include the need for the undertaker to notify commencement of licenced activities at least 10 working days prior to such commencement. The ExA has included this change in the rDCO	
155)	Minor drafting errors amended in Part 2 Conditions 7(1) and 7(3). The ExA has included this change in the rDCO	
156)	Part 2 Paragraph 10(1) and (7) modified to cite the correct legislative provisions and the bodies required to be consulted. The ExA has included this change in the rDCO	

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
157)	Part 2 Condition 12(1)(a) adjusted to add a new subparagraph regarding exclusion zones and micro-siting requirements following survey work required under Condition 17. The ExA has included this change in the rDCO	Chapter 9 of this Recommendation Report
158)	In response to comments from the MMO [RR-053], amendment to Part 2 Condition 12(1)(b)(iii) and 12(1)(b)(iv) to clarify the documents required to be submitted to the MMO under Conditions 17, 18 and 19. The ExA has included this change in the rDCO	
159)	Part 2 Condition 12 (1)(c)(i), (1)(d) and (1) amended for clarity purposes and to make reference to a navigation management plan. The ExA has included this change in the rDCO	Chapter 12 of this Recommendation Report
160)	Part 2 Condition 12(1)(d)(vii) added to the dDCO to require a code of conduct to reduce risk of injury to mammals to be agreed. The ExA has included this change in the rDCO	Chapter 8 of this Recommendation Report
161)	Part 2 Condition 12 amended in all subsections to require submissions of various plans and protocols to the MMO at least six months prior to commencement of the licenced activities. The ExA has included this change in the rDCO	Chapter 8 of this Recommendation Report
162)	Part 2 Condition 12(1)(f)(vi) to replace the reference of the National Record of the Historic Environment with the correct naming standard of " <i>Archaeological Data Service</i> ". The ExA has included this change in the rDCO	
163)	Part 2 Condition 12(1)(j) amended to specify that the mitigation scheme for benthic habitats should include the " <i>designated features of the MCZ</i> " (where MCZ is Marine Conservation Zone) The ExA has included this change in the rDCO	Chapter 9 of this Recommendation Report
164)	Part 2 Condition 13 (3) amended to change the reference to 4 months to 6 months, allowing further time for the MMO to make decisions on discharge submissions. The ExA has included this change in the rDCO	Chapter 8 of this Recommendation Report

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
165)	In response to comments from the MMO [RR-053], amendment to Part 2 Condition 14, where reference to Condition 13 deleted. The ExA has included this change in the rDCO	
166)	Minor edits and insertions of words within Part 2 Conditions 17(1), 17(4)(c) and 18(1). The ExA has included this change in the rDCO	
167)	In response to request from NE, amendment in respect of Schedule 12 Condition 19, with the insertion of new sub-paragraph (3)(f) to require monitoring of cables installed within the MCZ. The ExA has included this change in the rDCO	
168)	In respect of Schedule 13 Part 2 Condition 19, minor typographical and omission errors reconciled. The ExA has included this change in the rDCO	
169)	In response to the ExA's Proposed Changes to the dDCO [PD-018], change to Part 2 Condition 19(5) replacing the phrase " <i>operational lifetime</i> " with the wording " <i>is decommissioned</i> " for clarity purposes. The ExA has included this change in the rDCO	
170)	Part 2 Condition 19 amended with new sub-paragraph (6) The ExA has included this change in the rDCO	Chapter 7 of this Recommendation Report
171)	Proposed change in the rDCO In the rDCO, the ExA has proposed a further sub-paragraph (7) to Condition 19 to secure remedial measures, if monitoring identified effects worse than those anticipated in the ES.	Chapter 9 of this Recommendation Report
172)	Part 2 Condition 22 added on sediment sampling and collaboration. The ExA has included this change in the rDCO	Chapter 11 of this Recommendation Report
173)	Part 2 Condition 23 added to ensure collaboration between undertakers and subsequently corrected to remove references to the undertaking companies of SEL and DEL. The ExA has included this change in the rDCO	Chapter 4 of this Recommendation Report

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
174)	Part 2 Condition 24 updated with a new condition 24 to impose a seasonal restriction upon construction works to reduce impacts on red-throated diver. The ExA has included this change in the rDCO	Chapters 7 and 29 of this Recommendation Report
175)	Proposed change in the rDCO In the rDCO, the ExA has included Condition 25 to introduce an obstacle free zone as proposed by the MCA to increase sea room and improve navigational safety.	Chapter 12 of this Recommendation Report
SCHEDULE 14 – PROTECTIVE PROVISIONS		
176)	Various updates to the suite of protective provisions following discourse with the relevant parties. Joint protection provisions for the LLFA updated. The ExA has included these changes in the rDCO.	Chapter 28 of this Report
177)	Part 14 added for the benefit of NH. The ExA has included this change in the rDCO.	Chapter 28 of this Recommendation Report
178)	Part 15 added for the benefit of Perenco North Sea Limited and updated at final deadline. The ExA has included this change in the rDCO.	Chapter 14 and 28 of this Recommendation Report
SCHEDULE 15 – ARBITRATION RULES		
179)	No changes proposed in either the Applicant's final dDCO or the ExA's rDCO.	
SCHEDULE 16 HEDGEROWS		
180)	Minor changes to add hedgerows in Parts 1, 2 and 3. The ExA has included this change in the rDCO.	
SCHEDULE 17 – COMPENSATORY MEASURES		
181)	Part 1 Paragraph 4(1)(i) and Part 2 Paragraph 13(i) both amended to clarify the consent of the Secretary of State is needed before the Applicant can switch to using any Strategic Compensation Fund. The ExA has included these changes in the rDCO	Chapter 26 of this Recommendation Report

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
182)	Part 1 Paragraph 4(3) amended to require a predator management plan	Chapter 26 of this Recommendation Report
183)	Part 1 Paragraph 5 amended to clarify the Applicant shall not be required to undertake project-level compensatory measures should strategic and collaborative measures come into force in an appropriate timeframe. The ExA has included this change in the rDCO	Chapter 26 of this Recommendation Report
184)	Part 1 Paragraph 1 and Part 2 Paragraph 10 both updated to insert 'compensation' in the definition of the relevant implementation and monitoring plan.	
185)	Part 2 Paragraph 14 amended to clarify the Applicant shall not be required to undertake project-level compensatory measures should strategic and collaborative measures come into force in an appropriate timeframe. The ExA has included this change in the rDCO	Chapter 26 of this Recommendation Report
186)	Part 1 Paragraph 8 and Part 2 Paragraph 18 added in as new paragraphs to require monitoring results to be submitted at least annually to the Secretary of State and, if the monitoring shows measures have been ineffective, any proposals to address effectiveness to be submitted and approved in writing. The ExA has included this change in the rDCO.	Chapter 26 of this Recommendation Report
187)	Proposed change in the rDCO In the rDCO, the ExA has proposed including as Part 3, provisions to secure delivery of measures to compensate for adverse effects to guillemot Flamborough and Filey Coast Special Protection Area. The ExA has used, without any amendments, the Applicant's without prejudice wording provided by the Applicant.	Chapter 26 of this Recommendation Report
188)	Proposed change in the rDCO In the rDCO, the ExA has proposed including as Part 4, provisions to secure Measures of Equivalent Environmental Benefit (MEEB) for Cromer Shoal Chalk Beds MCZ. The ExA has use the Applicant's without prejudice wording provided by the Applicant, with an amendment	Chapter 9 of this Recommendation Report.

Ref	Changes made to Applicant's dDCO through the course of the Examination	Location for further explanation
	Changes proposed in ExA's rDCO	
	to secure implementation of the MEEB before the cable protection is installed (if it is determined that cable protection is required).	
SCHEDULE 18 – DOCUMENTS TO BE CERTIFIED		
189)	A new Schedule 18 inserted to include a list of all documents to be certified in the DCO, corresponding to the provision in Article 38. The ExA has included this change in the rDCO.	
190)	Proposed change in the rDCO In the rDCO, the ExA has proposed the inclusion of the Schedule of Mitigation and Mitigation Routemap (Revision B) [REP8-021]. In the rDCO, the ExA also proposes the inclusion of the amended Works Plan in line with the new Condition 25 in dDMLs 12 and 13 and R34. Any further amended documents should also be updated in Schedule 18.	

29.5. CONCLUSIONS

29.5.1. The ExA has considered all iterations of the dDCO submitted by the Applicant and is in agreement with the Applicant on a majority of the changes proposed in the final dDCO [REP8-005]. The provisions in the rDCO where the ExA has recommended changes are listed here:

- 1) In the rDCO, the ExA has proposed further amendments to sub-paragraph 3 to restrict powers to acquire rights or impose restrictive covenants in 20(1) and 20(2) to plots identified in Schedule 7 only. This has been done by adding a cross reference to Article 26 and creating a bar to the powers in Article 20(1) and 20(2) by cross referencing sub-paragraphs (1) and (2).
- 2) In the rDCO, the ExA has proposed insertion of additional wording to R15 in sub-paragraph (5) to secure a provision that would not allow the exceedance of maximum daily vehicle trips per link set out in the OCTMP, Annex A.
- 3) In the rDCO, the ExA has proposed additional wording to R20 in sub-paragraph (2)(a) in order that trenchless crossing works at night are restricted to emergency works only, or at the three crossings where the Applicant is required by a statutory undertaker to do so for safety reasons.
- 4) In the rDCO, the ExA has proposed a new R34 to secure PFG mitigation prior to the commencement of the Proposed Development. The ExA has adopted the without prejudice wording provided by the Applicant, with amendments to sub-paragraph (1), securing provisions relating to the geographical definition of the mitigation scheme and the timeframe for the approval process.

- 5) In the rDCO, the ExA has included R35 (corresponding to Condition 25 of the dDMLs Schedules 10, 11, 12 and 13) to secure an obstacle free zone as proposed by the MCA to increase sea room and improve navigational safety.
- 6) In the rDCO, the ExA has proposed a further sub-paragraph (7) in Condition 20 of the dDMLs (Schedules 10 and 11) and Condition 19 of the dDMLs (Schedule 12 and 13) to secure remedial measures, if monitoring identified effects worse than those anticipated in the ES post-mitigation.
- 7) In the rDCO, the ExA has included Condition 25 in the dDMLs Schedules 10, 11, 12 and 13 to secure an obstacle free zone as proposed by the MCA to increase sea room and improve navigational safety.
- 8) In the rDCO, the ExA has proposed including as Part 3, in Schedule 17, provisions to secure delivery of measures to compensate for adverse effects to guillemot Flamborough and Filey Coast Special Protection Area. The ExA has used, without any amendments, the Applicant's without prejudice wording provided by the Applicant.
- 9) In the rDCO, the ExA has proposed including as Part 4, in Schedule 17, provisions to secure MEEB for Cromer Shoal Chalk Beds MCZ. The ExA has use the Applicant's without prejudice wording provided by the Applicant, with an amendment to secure implementation of the MEEB before the cable protection is installed (if it is determined that cable protection is required).
- 10) In the rDCO, the ExA has proposed the inclusion of the Schedule of Mitigation and Mitigation Routemap (Revision B) [REP8-021].
- 11) In the rDCO, the ExA also proposes the inclusion of the amended Works Plan in line with the new Condition 25 in dDMLs 12 and 13 and R35. Any further corresponding amended documents should also be updated in Schedule 18.

29.5.2. The ExA considers that the rDCO includes Requirements that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in line with the NPS EN1 (Paragraph 4.1.7).

29.5.3. Taking all matters raised in this Chapter and all matters relevant to the DCO raised in the remainder of this Recommendation Report fully into account, if the SoS is minded to make the DCO, it is recommended to be made in the form set out in Appendix D.

30. SUMMARY OF FINDINGS AND CONCLUSIONS

30.1. INTRODUCTION

The Examining Authority (ExA) confirms that this application has been examined with reference to Section (s) 104 of the Planning Act 2008 (PA2008) as amended. The ExA has had regard to Overarching National Policy Statement (NPS) for Energy (NPS EN1), NPS for Renewable Energy Infrastructure (NPS EN3) and NPS for Electricity Networks Infrastructure (NPS EN5), and NPS for Ports. The ExA has also had regard to the Marine and Coastal Access Act 2009 (MCAA2009), Local Impact Reports (LIR) submitted by Local Authorities (LA) and other matters prescribed in relation to the Proposed Development, and to other matters that are both important and relevant to the Secretary of State's (SoS) decision.

30.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

30.2.1. The ExA concludes that making the recommended Development Consent Order (rDCO) would be in accordance with NPS EN1, NPS EN3, and NPS EN5, the Marine Policy Statement and the East Inshore and East Offshore Marine Plans (subject to the ExA's recommendations as set out below). The ExA can confirm that matters arising from the LIRs from Norfolk County Council (NCC), North Norfolk District Council, Broadland District Council and South Norfolk Council have been taken into account. With regard to all other matters and representations received in the Examination, there are no important and relevant matters that would individually or collectively lead to a different recommendation to that below.

30.2.2. Whilst the duty under Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 is on the SoS in making a decision, the ExA has, in examining and making its recommendation on this application:

- 1) had regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess;
- 2) had regard to the desirability of preserving or enhancing the character or appearance of conservation areas; and
- 3) had regard to the desirability of preserving scheduled monuments or their setting.

30.2.3. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992.

30.2.4. There are reasons to indicate that the application should be decided other than in accordance with the relevant NPSs, to which we now turn.

30.2.5. The Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (the Habitats Regulations) require the Competent Authority to agree to the Proposed Development only after having ascertained that it would not affect the integrity of affected European sites. Whilst the SoS is the Competent Authority under the Habitats Regulations, the ExA concludes that the Proposed Development would adversely affect the integrity of European sites and that therefore the tests in the Habitats Regulations have not been met. In the absence of any fully developed compensatory measures for the Sandwich Tern feature of the North Norfolk Coast Special Protection Area (SPA) and the Greater Wash SPA as well as for the Guillemot feature of the Flamborough and Filey Coast SPA, the ExA cannot be assured that determining the application in accordance with the relevant NPS would not lead to the UK being in breach of Habitats Regulations and would lead to a breach of the UK's international obligations under the Ramsar Convention.

- 30.2.6. Given this finding and having regard to Section (s) 104(5), the ExA concludes that it has no alternative other than to recommend to the SoS that the Development Consent Order (DCO) should not be made. Consequently, any case for Compulsory Acquisition (CA) or Temporary Possession (TP) of land and rights made by the Applicant to deliver the Proposed Development would not be justified.
- 30.2.7. Having reached that conclusion, it is not necessary for the ExA to conclude on the balance of adverse impacts and benefits in accordance with s104(7). Nevertheless, the ExA has summarised the adverse impacts and benefits as it sees them in Chapter 27 of this Recommendation Report and in the next Section of this Chapter.

30.3. CIRCUMSTANCES WHERE THE SoS CONCLUDES THAT HABITATS REGULATION ASSESSMENT (HRA) MATTERS ARE SATISFACTORY

- 30.3.1. As set out in Chapter 26, as the Competent Authority, the SoS may reach a different conclusion, or additional information may have become available to the SoS between the close of the Examination and the application being determined, to the effect that HRA matters do not preclude the SoS from making the Order.
- 30.3.2. In those circumstances the first test to be applied is that set out in s104(3) of the PA2008. The ExA considers that the Proposed Development is compliant with NPS EN3, subject to Requirement (R) 35 in rDCO and Condition 25 of the draft Deemed Marine Licenses (dDML) Schedules 12 and 13, ensuring that the risk to navigation and shipping would be as low as reasonably possible (ALARP). However, without the proposed provisions in the rDCO, the ExA must find the Proposed Development non-compliant with NPS EN3 Paragraph 2.6.165.
- 30.3.3. Having taken that matter into account, and considering it resolved through the rDCO amendments, the ExA concludes that the Proposed Development would be compliant with NPS EN1, NPS EN3 and NPS EN5. Accordingly, s104(3) is satisfied. Furthermore, the ExA has found the benefits of the Proposed Development outweigh the identified harm as per s104(7) of the PA2008 for all Development Scenarios.
- 30.3.4. The ExA is satisfied that in line with NPS EN1, the Applicant has demonstrated the need for the Proposed Development and recommends that the SoS should give substantial weight to the contribution that the Proposed Development would make to satisfying the need for this type of energy infrastructure (NPS EN1, Paragraph 3.1.4). The presumption in favour of development of offshore wind farms (OWF), as an energy type set out in NPS EN1, would therefore be engaged (NPS EN1, Paragraph 4.1.2).
- 30.3.5. Not all issues raised by Interest Parties (IP) have been resolved by the close of the Examination. However, the ExA is satisfied that adequate mitigation is secured, and that the relevant planning authorities or Statutory Bodies have control over approval of management plans and delivery strategies which are secured through the rDCO, at Appendix D of this Recommendation Report. The resolution of these matters at this stage does not undermine the ExA's ability to make its recommendation to the SoS and as such no further action is required.
- 30.3.6. The Public Sector Equality Duty (PSED) under the Equality Act 2010 is applicable to the ExA in the conduct of this Examination and reporting and to the SoS in decision-making. In compliance with its duties under PSED, the ExA invited representation in a range of different methods: written format, online via video link, and in person at venues with adequate accessibility provisions. In the ExA's knowledge there were no persons with Protected Characteristics that wished to participate in the Examination

and were not able to. In that regard the ExA believes it has fulfilled its duties under PSED.

- 30.3.7. The ExA is content that CA and TP powers requested by the Applicant are necessary to the implementation of the Proposed Development. The ExA is also convinced that the Applicant has a clear idea of how it intends to use the land, the precise need for the land and rights that are required, and how to construct the Proposed Development within a reasonable timeframe. The ExA is satisfied that the Applicant has explored reasonable alternatives to the CA of land, rights and interests sought and there are no alternatives that ought to be preferred. The ExA is satisfied that adequate and secure funding would be available to enable CA within the relevant timeframe following the Order being made.
- 30.3.8. However, there are outstanding objections from statutory undertakers (SUs) with regards to the Protective Provisions (PP) included in the rDCO, consent from all Crown Authorities has not been secured, and there is an outstanding objection from the National Trust (NT) on the CA of land that is inalienably held by the NT. The SoS would need to secure requisite consents and agreements before the case for CA can be made for all of the Order Land.
- 30.3.9. The ExA has had regard to the provisions of the Human Rights Act 1998. However, these are qualified rights and the weight of national policy in favour of the Proposed Development and the public benefits arising from the Proposed Development means that the interference in the human rights of affected owners and occupiers would be proportionate and justified in the public interest. The ExA is further reassured that the Applicant is seeking to acquire the minimum possible rights and interests that would be needed to construct, operate and maintain the Proposed Development.
- 30.3.10. Considering all of the above factors together, and upon securing the requisite consents and agreements from SUs, Crown Authorities and NT, the ExA concludes that the Proposed Development would comply with s122(2) and s122(3) of the PA2008, and that there is a compelling case in the public interest for the CA and TP powers sought in the Application.

30.4. RECOMMENDATION

- 30.4.1. For all of the above reasons and in light of the ExA's findings and conclusions on important and relevant matters set out in the Report, the ExA recommends that SoS does not make the Order for Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects.
- 30.4.2. In the event that the Secretary of State disagrees with the ExA's findings in relation to the HRA, or if more conclusive evidence that appropriate compensation can be secured is provided after the close of the Examination, and consequently they decide to make the Order, then the ExA recommends that the SoS should make the Order in the form recommended in the rDCO in Appendix D of this Recommendation Report, subject to the considerations set out here:

Table 12: Considerations for SoS, if the SoS is minded to make the Order

Interested Party	Reason	Reference in Report
Applicant	<u>National Planning Policy Framework</u>	Chapter 3 Paragraph 3.9.1 to 3.9.4

	<p>The July 2021 iteration of the NPPF was in force throughout the Examination of the Proposed Development. The recently re-issued NPPF of September 2023 came into effect after the Examination had closed. This Recommendation Report therefore refers and relies on the July 2021 version for its planning considerations, where relevant. It is the ExA's views that none of the changes to the NPPF were materially important or relevant for the consideration of the Proposed Development. However, the SoS may wish to ask the Applicant for an assessment of compliance against the NPPF 2023.</p>	
<p>Applicant Natural England Marine Management Organisation (MMO)</p>	<p><u>Offshore In-Principle Monitoring Plan</u></p> <p>The ExA has drafted amendments to Condition 20 (of Schedules 10 and 11) and Condition 19 (Schedules 12 and 13) of the draft Deemed Marine Licences within the rDCO. The amendments have been made without Interested Parties having had the opportunity to comment, and their views should be sought before imposing such amendments.</p>	<p>Chapter 7 Paragraphs 7.4.107 to 7.4.111</p>
<p>Applicant Natural England Marine Management Organisation</p>	<p><u>Adoption of the MEEB</u></p> <p>The ExA has proposed including Part 4 to Schedule 17 in the rDCO to provide for the inclusion of the Measures of Equivalent Environmental Benefit (MEEB). For this purpose the ExA has adopted the drafting provided by the Applicant.</p> <p>The current drafting provides for the MIMP to be approved by the SoS before cable protection is used within the Marine Conservation Zone (MCZ). However, the ExA considers that the MIMP should be approved by the SoS prior to any laying of cables within the MCZ, and has proposed an amendment to sub-paragraph (33) to secure. However, as this wording was determined by the ExA after the close of the Examination, the SoS may wish to consult with the MMO and the Applicant.</p>	<p>Chapter 9 Paragraphs 9.2.76 to 9.2.77</p>
<p>Natural England (NE)</p>	<p><u>Natural England consult on Mitigation Routemap</u></p> <p>The ExA recommends the SoS consults with NE on the final submitted Schedule of Mitigation and Mitigation Routemap (Revision B), which NE did not get the opportunity to comment on, given its submission at the close of the Examination.</p>	<p>Chapter 9 and 10 Paragraph 9.2.106</p>

<p>Applicant Marine Conservation Authority (MCA)</p>	<p><u>Obstacle Free Zone for navigational safety</u></p> <p>The ExA has proposed wording for the provision of an obstacle free zone in line with MCA’s requirement, which is Condition 25 in all the rDMLs (Schedules 10 to 13). Additionally, the ExA also proposes that the same drafting should also be a requirement and which is R35 in the rDCO.</p> <p>While MCA provided the wording during the Examination, the matter was not agreed between the Applicant and MCA. Moreover, the final wording proposed in the rDCO was set after the close of Examination. As such, the SoS may wish to consult with the Applicant and MCA on the wording and inclusion of these Requirement/ Conditions.</p> <p>Furthermore, SoS may also wish to request from the Applicant revised Works Plans to reflect the Condition’s restrictions, and include the revised Works Plans in the Certified Document.</p>	<p>Chapter 12 Paragraph 12.4.51 to 12.4.57</p>
<p>Applicant Marine Conservation Authority</p>	<p><u>MCA submission at the close of Examination</u></p> <p>Due to its late submission in the Examination the SoS may wish to consult with the Applicant regarding MCA’s submission [REP8-093], which contained information on several matters, including controlling depth and safe passing distance.</p>	<p>Chapter 12 Paragraph 12.4.58</p>
<p>National Air Traffic Services (NATS)</p>	<p><u>Follow up outstanding objection from NATS</u></p> <p>NATS had an outstanding objection at the close of the Examination to the Proposed Development, on grounds of civilian aviation safety because mitigation had not been agreed with the Applicant. The SoS may wish to consult with NATS and the Applicant on progress with the agreement on mitigations and take in to account in drawing their own final conclusion.</p>	<p>Chapter 13 Paragraph 13.5.17</p>
<p>Applicant Civil Aviation Authority (CAA) Norwich Airport Helicopter Operators</p>	<p><u>Air Traffic Control Surveillance Minimum Altitude Chart (ATCSMAC) and Minimum Safe Altitude (MSA)</u></p> <p>If the SoS wishes to explore the matter of the progress with the raising the MSA/ ATCSMAC of Norwich Airport, and its effect on helicopter operators, then the SoS may wish consult further with the CAA, Norwich Airport and the Applicant. The ExA suggests that such consultation could include request for the following information:</p>	<p>Chapter 13 Paragraph 13.6.4 to 13.6.5</p>

	<ol style="list-style-type: none"> 1. Joint statement between the Applicant, CAA and Norwich Airport to set out next steps in the process of raising the MSA/ ATCSMAC, along with timescales and risks; 2. Representations from the CAA as to whether there is any chance that approval for the change in MSA and ATCSMAC sectorisation is not given; 3. Joint statement from the Applicant and Norwich Airport with an assessment of the risks and implications to civil aviation safety if CAA's approval is not forthcoming; and 4. Request for representations from helicopter operators if they perceive any related safety issues or provide updates on private agreements. 	
Perenco	<p><u>Perenco Protective Provisions (PP)</u></p> <p>Perenco had an outstanding objection at the close of the Examination. The Applicant included PP for Perenco in the final dDCO which included 1.26nm buffer for helicopter access. However, this was submitted at the close of the Examination. The SoS may wish to consult with Perenco on the suitability of the PP and if that alleviates its concerns and lifts the objection.</p>	Chapter 14 Paragraph 14.3.31 and 14.4.41 and Chapter 28
Applicant Natural England	<p><u>Habitats Regulations Assessment – Pink-footed Geese</u></p> <p>The ExA has drafted amendments to Requirement 19 in the rDCO to secure a pink-footed geese mitigation strategy. The amendment has been made without either the Applicant or Natural England having had the opportunity to comment, and their views should be sought before imposing such amendments.</p>	Chapter 21 Paragraph 21.4.45 to 21.4.49 Chapter 26 Paragraph 26.5.23
Norfolk County Council	<p><u>Traffic and Transport</u></p> <p>The ExA is of the view that Requirement 15 should be amended to include restrictions to trip generation figures and the Applicant provided without prejudice wording. However, this was on the last day of the examination, so Interested Parties have not had the opportunity to comment. The SoS should therefore provide IPs with an opportunity to comment before imposing the additional wording.</p>	Chapter 18 Paragraphs 18.4.11 to 18.4.15
Applicant Local Authorities	<p><u>Noise and Vibration</u></p> <p>The ExA has drafted amendments to Requirement 20 of the rDCO in relation to trenchless crossing works at night-time. The Applicant and Interested Parties have not seen</p>	Chapter 19 Paragraphs 19.4.38 to 19.4.51

Oulton Parish Council	the wording and the SoS should consult them before imposing the amendments.	
Applicant Natural England	<u>Habitats Regulation Assessment – Sandwich Terns</u> The ExA has concluded the Applicant's compensatory measures are not fully developed. If the SoS is minded to grant development consent, considerable additional work on the design and detailing of the inland pool at Loch Ryan, including progress towards acquiring the land, is required to be undertaken in order to demonstrate a clear and secure route to consenting, implementation and long-term management.	Chapter 26 Paragraphs 26.10.76 to 26.10.82
Applicant Natural England	<u>Habitats Regulation Assessment – Guillemot</u> The ExA has conclude the Applicant's compensatory measures are not fully developed. If the SoS is minded to grant development consent, significant additional work is necessary to demonstrate that the compensatory measures for guillemot in the southwest of England would provide quantifiable and qualitative benefits to the nearest SPAs and the coherence of the National Site Network.	Chapter 26 Paragraphs 26.10.108 to 26.10.115
Applicant Natural England Royal Society for the Protection of Birds	<u>Habitats Regulations Assessment – Seabird Assemblage</u> The ExA concludes that compensatory measures are required for the seabird assemblage in light of the findings on the impacts upon the guillemot feature of the Flamborough and Filey Coast Special Protection Area, but none have been provided by the Applicant. If the SoS is minded to grant development consent, additional reasoning is required from all stated parties as to why compensatory measures are required or not.	Chapter 26 Paragraphs 26.10.116 to 26.10.121
Applicant Natural England	<u>Habitats Regulations Assessment - Red-throated Divers</u> The ExA has concluded that an Adverse Effect on Integrity (AEoI) can be ruled out for the red-throated diver feature of the Greater Wash Special Protection Area but only on the basis that the Applicant's proposed mitigations are included in full. This results in the rDCO being made subject to the works plans submitted at Deadline 8 [REP8-004]. If the SoS is minded to grant development consent this should be subject to the Works Plans (Offshore) (Without Prejudice) (Revision B) [REP8-004] as per the	Chapter 7 Paragraphs 7.4.83 and 7.4.96 Chapter 26 Paragraphs 26.8.93 to 26.8.104

	rDCO. If the SoS finds against the ExA's conclusions and is minded to grant development consent using, Works Plans (Offshore) (Revision D), further information should be sought from the Interested Parties on the implications for the red-throated diver feature and whether an AEoI could be ruled out.	
Applicant Natural England	<u>Collision and Displacement Risk Assessments</u> If the SoS is minded to grant development consent, it would be necessary to make a decision based on the most up-to-date data available. Should further data become available from other offshore wind farms prior to the SoS' determination, this data should be incorporated into the Applicant's assessments.	Chapter 26 Paragraphs 26.8.16 to 26.8.17
Applicant Secretary of State for Defence (SoS Defence) Secretary of State for Transport (SoS Transport)	<u>Crown consent</u> In the absence of requisite consents from the relevant Crown Authorities at SoS Defence and SoS Transport, the ExA concludes that the Order cannot authorise the CA of those plots of land and/ or interests which are Crown land because s135(2) has not been met. If the SoS is minded to grant consent for the Proposed Development, the ExA recommends that prior to the issuing their decision, the SoS would need to obtain consents from the relevant Crown Authorities at SoS Defence and SoS Transport, for the Crown land consistent with the BoR [REP8-014, Part 4] and in accordance with s135(1) of the PA2008.	Chapter 28 Paragraphs 28.8.7 to 28.8.10
Applicant The National Trust (NT)	<u>CA of land held inalienably by the NT</u> NT's objection to the CA of land for the Proposed Development, has not been withdrawn. As such the CA of the NT land at Weybourne Woods would be subject to special parliamentary procedures. However, given the closing statements by both parties' states that they have reached agreement in principle, the ExA recommends that if the SoS is minded to grant consent, the SoS may wish to seek an update from the Applicant and NT, confirming whether or not the objection from NT has been withdrawn. If parties confirm that NT's objection has been withdrawn then the SoS may conclude that the case for CA of NT's land at Weybourne Woods is made, and no further action would be needed.	Chapter 28 Paragraphs 28.8.26 to 28.8.27
Applicant	<u>Confirmation of agreement on Protective Provisions (PP)</u>	Chapter 28 Paragraphs

<p>Shell U.K. Limited</p> <p>Harbour Energy</p> <p>Independent Oil and Gas (IOG)</p>	<p>The Applicant has confirmed that standard PP for Statutory Undertakers (SU): Shell U.K. Limited, Harbour Energy, and IOG, are agreed. However, the Applicant also states that negotiations are still ongoing. The SoS may wish to confirm with parties if the outcome of the negotiations would have any impact on the SU's position with respect to the suitability of the standard PPs.</p>	<p>28.9.4, 28.9.5 and 28.9.9</p>
<p>National Gas Transmission (NGT)</p> <p>National Grid Electricity Transmission PLC (NGET)</p> <p>National Rail</p> <p>Orsted in relation to Hornsea Project Three (Hornsea 3)</p> <p>Perenco</p>	<p><u>Update on negotiations on PP</u></p> <p>PPs with the following SUs were not agreed before the close of the Examination. The SoS may need to seek an update from parties on status of negotiations.</p>	<p>Chapter 28 Paragraphs</p> <p>28.9.14 to 28.9.15</p> <p>28.9.22 to 28.9.23</p> <p>28.9.59 to 28.9.60</p> <p>28.9.72 to 28.9.74</p> <p>28.9.86 to 28.9.89</p>
<p>Applicant</p> <p>National Highways (NH)</p>	<p><u>Update on negotiations on PP with NH</u></p> <p>PP were not agreed between NH and the Applicant. The Applicant has included its proposed bespoke PP for the protection of NH assets in the final dDCO. NH did not agree with Applicant's proposed wording and submitted its own version. The ExA recommends that NH's proposed PP are included in the made DCO, if consent is granted; however this is not included in the rDCO because negotiations were underway when the Examination closed and there was indication that there might be an agreement between parties imminently.</p> <p>The ExA recommends that the SoS consults with the Applicant and NH on progress with agreement on the PP. The ExA recommends that subject to the response, SoS should include in the Order, either the agreed PP provided by both parties or NH's proposed PP.</p>	<p>Chapter 28 Paragraphs 28.9.50 to 28.9.51</p>
<p>Applicant</p> <p>National Highways (NH)</p>	<p><u>Proposed changes in Article 5</u></p> <p>The ExA is content with NH and Applicant's proposed amendments to Article 5 and has included this amendment in the rDCO. While both parties are agreed on this amendment in principle, the exact wording was submitted into Examination the day it closed. As such, the</p>	<p>Chapter 28 Paragraph 28.9.52</p>

	SoS may wish to consult with NH if the Applicant's proposed drafting would be suitable.	
Applicant	<p><u>Proposed change to Article 20</u></p> <p>The Applicant has not seen the ExA's proposed amendment to Article 20(3), the SoS may wish to consult with the Applicant on this matter.</p>	Chapter 28 Paragraph 28.9.39



The Planning Inspectorate

The Planning Act 2008

Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Project

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Energy Security and Net Zero

Part 2 – Appendices

Examining Authority

Menaka Sahai DipArch MSc (Urban Design) MSc (Planning) MRTPI Lead Panel Member

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17 October 2023

APPENDIX A: EVENTS IN PRE-EXAMINATION AND EXAMINATION

APPENDIX A: EVENTS IN PRE-EXAMINATION AND EXAMINATION

The table below lists the main events that occurred during the pre-Examination and Examination stages, and the Procedural Decisions taken by the Examining Authority.

Date	Event
01 November 2022	Unaccompanied Site Inspection 1
13 December 2022	Issue by ExA of: <ul style="list-style-type: none"> • Notification of the Preliminary Meeting (Rule 6)
05 January 2023	Procedural Deadline A For the receipt by the ExA of: <ul style="list-style-type: none"> • Confirmation of wish to observe or speak at the Preliminary Meeting including details of which agenda items to discuss • Confirmation of wish to speak at Issue Specific Hearings (ISH) 1 and 2, including details of topics for discussion • Confirmation of wish to speak at Open Floor Hearing (OFH) 1, including details of topics for discussion • Confirmation of attendance at the Accompanied Site Inspection (ASI) 1 • Proposed ASI1 itinerary from the Applicant • Any written submissions about how the application is to be examined
16 January 2023	Unaccompanied Site Inspection 2
17 January 2023	Preliminary Meeting
17 January 2023	Open Floor Hearing 1 (OFH1)
18 January 2023	Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters, including Development Consent Order
19 January 2023	Accompanied Site Inspection 1 (ASI1)
20 January 2023	Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters, including Development Consent Order

27 January 2023	<p>Issue by the ExA of (Rule 8 letter):</p> <ul style="list-style-type: none"> • Examination Timetable • Notification of hearings • Notification of Accompanied Site Inspections • Examining Authority’s First Written Questions (ExQ1)
20 February 2023	<p>Deadline 1 (D1) For receipt by the ExA of:</p> <ul style="list-style-type: none"> • Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority • Responses to Relevant Representations • Written Representations (WR), including summaries of all WRs exceeding 1500 words • Responses to the Examining Authority’s First Written Questions (WQ1) • Applicant’s Compulsory Acquisition Schedule • Statements of Common Ground • Applicant’s Statement of Commonality • Local Impact Reports from relevant Local Authorities • Nominations for sites for Accompanied Site Inspection in March 2023 • Requests for further Open Floor Hearing • Requests for Compulsory Acquisition Hearing • Confirmation of wish to attend and speak at the Hearings 22-24 and 29-31 March 2023, including details of topics of discussion • Any other information requested by the Examining Authority under Rule 17 of the Examination Rules • Updates from the Applicant: <ul style="list-style-type: none"> - Guide to the Application - Draft Development Consent Order (dDCO) - Explanatory Memorandum - Schedule of changes to dDCO
22 February 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Notification of Hearings
07 March 2023	<p>Deadline 2 (D2) For the receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses to Relevant Representation • Comments on Written Representations • Comments on responses to the Examining

	<p>Authority's First Written Questions (WQ1)</p> <ul style="list-style-type: none"> • Comments on the Local Impact Reports • Comments from Affected Persons on Applicant's Compulsory Acquisition Schedule • Applicant's proposed Accompanied Site Inspection (ASI2) itinerary • Comments on any other information and submissions received at D1 • Any other information requested by the Examining Authority under Rule 17 of the Examination Rules
07 March 2023	Submission of Applicants non-material change application
22 March 2023	Issue Specific Hearing 3 (ISH3) on onshore environmental matters, including the draft Development Consent Order
23 March 2023	Issue Specific Hearing 4 (ISH4) on onshore environmental matters, including the draft Development Consent Order
24 March 2023	Accompanied Site Inspection (ASI2)
29 March 2023	Compulsory Acquisition Hearing 1 (CAH1) including the draft Development Consent Order
29 March 2023	Open Floor Hearing 2 (OFH2)
30 March 2023	Issue Specific Hearing 5 (ISH5) on offshore environmental matters, including the draft Development Consent Order
30 March 2023	Unaccompanied Site Inspection 2
31 March 2023	Issue Specific Hearing 6 (ISH6) on offshore environmental matters, including the draft Development Consent Order
11 April 2023	Applicant submitted formal change request application
12 April 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Second Written Questions (ExQ2)

17 April 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Procedural Decision to accept Applicant’s non-material change request of 7 March 2023, and material change request of 11 April 2023 • Proposed Provisions Checklist
20 April 2023	<p>Comments invited by ExA on the Applicants proposed provision for the compulsory acquisition of land</p>
02 May 2023	<p>Deadline 3 (D3) For receipt by the ExA of:</p> <ul style="list-style-type: none"> • Post-hearing submissions, including written summaries of oral submissions to the hearings (if held) • Responses to the Examining Authority’s Second Written Questions (WQ2) (if WQ2 is issued) • Comments on any other information and submissions received at D2 • Any further information requested by the Examining Authority under Rule 17 of the Examination Rules • Updates from the Applicant: <ul style="list-style-type: none"> - Statements of Common Ground - Statement of Commonality - Draft Development Consent Order (dDCO) - Explanatory Memorandum - Schedule of Changes to dDCO - Compulsory Acquisition Schedule
16 May 2023	<p>Deadline 4 (D4) For receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses to the Examining Authority’s WQ2 (if WQ2 is issued) • Comments on any other information and submissions received at D3 • Any further information requested by the Examining Authority under Rule 17 of the Examination Rules
23 May 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Notification of the hearings
26 May 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Third Written Questions (ExQ3)

	<ul style="list-style-type: none"> Proposed Changes to the DCO
31 May 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> Changes to the Examination Timetable
13 June 2023	<p>Deadline 5 (D5)</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> Responses to the Examining Authority's Third Written Questions (WQ3) Responses to the Examining Authority's proposed schedule of changes to the draft Development Consent Order (dDCO) Comments on any other information and submissions received at Deadline 4 Any further information requested by the Examining Authority under Rule 17 of the Examination Rules Updates from the Applicant: <ul style="list-style-type: none"> Statements of Common Ground Statement of Commonality Draft Development Consent Order (dDCO) Explanatory Memorandum Schedule of Changes to dDCO Compulsory Acquisition Schedule
16 June 2023	<p>Publication by ExA of Report on the Implications to European Sites (RIES)</p>
20 June 2023	<p>Deadline 6 (D6)</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> Responses to Relevant Representations on material change request Written Representations on material change request, including summaries of all WRs exceeding 1500 words Comments on responses to Examining Authority's WQ3 Comments on responses to Examining Authority's proposed schedule of changes to the draft Development Consent Order (dDCO) Comments on any other information and submissions received at Deadline 5 Requests from any additional Interested Parties and any additional Affected Persons for a further Open Floor Hearing Requests from any additional Interested Parties and any additional Affected Persons for a

	Compulsory Acquisition Hearing
20 June 2023	Unaccompanied Site Inspection 3
21 June 2023	Issue Specific Hearing 7 (ISH7) on Shipping and Navigation, and any other relevant offshore and onshore issues (ISH7)
22 June 2023	Compulsory Acquisition Hearing (CAH2)
29 June 2023	Issue by the ExA of: <ul style="list-style-type: none"> • Fourth Written Questions (ExQ4)
10 July 2023	<p>Deadline 7 (D7)</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on the RIES • Post-Hearing submissions including written submissions of oral case as requested by Examining Authority (relevant only if the Hearings are held) • Comments on responses to Relevant Representations • Comments on Written Representations • Responses to the Examining Authority's Fourth Written Questions (WQ4) • Comments on any other information and submissions received at D6 • Any further information requested by the Examining Authority under Rule 17 of the Examination Rules
12 July 2023	Issue by the ExA of: <ul style="list-style-type: none"> • Request for further information
17 July 2023	<p>Deadline 8 (D8)</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses to Examining Authority's Fourth Written Questions (WQ4) • Comments on any other information and submissions received at D7 • Any further information requested by the Examining Authority under Rule 17 of the Examination Rules • Final Updates from the Applicant

	<ul style="list-style-type: none"> • Final Statements of Common Ground • Final Statement of Commonality • Final Guide to the Application • Final draft Development Consent Order (dDCO) in the Statutory Instrument (SI) template with the SI template validation report • Final Explanatory Memorandum • Final Schedule of changes to dDCO • Final Compulsory Acquisition Schedule • Final updated Book of Reference
17 July 2023	Close of Examination
18 July 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Notification of completion of the Examination under section 99 of the Planning Act 2008

APPENDIX B: EXAMINATION LIBRARY

Sheringham and Dudgeon Extension Projects Examination Library

Updated – 17 October 2023

This Examination Library relates to the Sheringham and Dudgeon Extension Projects application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This was a working document and was updated periodically as the examination progressed.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

EN010109 – Sheringham and Dudgeon Extension Projects**Examination Library - Index**

Category	Reference
Application Documents As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
Adequacy of Consultation responses	AoC-xxx
Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
Additional Submissions Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination including responses to Rule 6 and Rule 8 letters	AS-xxx
Events and Hearings Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant's hearing notices	EV-xxx
Representations – by Deadline	
Procedural Deadline A:	PDA-xxx
Deadline 1: For receipt by the Examining Authority of: - Post-Hearing submissions including written submissions of oral cases as	REP1-xxx

<p>requested by Examining Authority</p> <ul style="list-style-type: none"> - Responses to Relevant Representations - Written Representations (WR), including summaries of all WRs exceeding 1500 words - Responses to the Examining Authority's First Written Questions (WQ1) - Applicant's Compulsory Acquisition Schedule - Statements of Common Ground - Applicant's Statement of Commonality - Local Impact Reports from relevant Local Authorities - Nominations for sites for Accompanied Site Inspection in March 2023 - Requests for further Open Floor Hearing - Requests for Compulsory Acquisition Hearing - Confirmation of wish to attend and speak at the Hearings 22-24 and 29-31 March 2023, including details of topics of discussion - Any other information requested by the Examining Authority under Rule 17 of the Examination Rules <p>Updates from the Applicant:</p> <ul style="list-style-type: none"> - Guide to the Application - Draft Development Consent Order (dDCO) - Explanatory Memorandum - Schedule of changes to dDCO 	
<p>Deadline 2:</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Comments on responses to Relevant Representation - Comments on Written Representations - Comments on responses to the Examining Authority's First Written Questions (WQ1) - Comments on the Local Impact Reports - Comments from Affected Persons on Applicant's Compulsory Acquisition Schedule - Applicant's proposed Accompanied Site 	<p>REP2-xxx</p>

<p>Inspection (ASI2) itinerary</p> <ul style="list-style-type: none"> - Comments on any other information and submissions received at D1 - Any other information requested by the Examining Authority under Rule 17 of the Examination Rules 	
<p>Deadline 3:</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Post-hearing submissions, including written summaries of oral submissions to the hearings (if held) - Responses to the Examining Authority's Second Written Questions (WQ2) (if WQ2 is issued) - Comments on any other information and submissions received at D2 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules <p>Updates from the Applicant:</p> <ul style="list-style-type: none"> - Statements of Common Ground - Statement of Commonality - Draft Development Consent Order (dDCO) - Explanatory Memorandum - Schedule of Changes to dDCO - Compulsory Acquisition Schedule 	<p>REP3-xxx</p>
<p>Deadline 4:</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Comments on responses to the Examining Authority's WQ2 (if WQ2 is issued) - Comments on any other information and submissions received at D3 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules 	<p>REP4-xxx</p>
<p>Deadline 5:</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Responses to the Examining Authority's Third Written Questions (WQ3) (if WQ3 is issued) - Responses to the Examining Authority's proposed schedule of changes to the 	<p>REP5-xxx</p>

<p>draft Development Consent Order (dDCO)</p> <ul style="list-style-type: none"> - Comments on any other information and submissions received at Deadline 4 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules <p>Updates from the Applicant:</p> <ul style="list-style-type: none"> - Statements of Common Ground - Statement of Commonality - Draft Development Consent Order (dDCO) - Explanatory Memorandum - Schedule of Changes to dDCO - Compulsory Acquisition Schedule 	
<p>Deadline 6</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Responses to Relevant Representations on material change request - Written Representations on material change request, including summaries of all WRs exceeding 1500 words - Comments on responses to Examining Authority's WQ3 (if WQ3 is issued) - Comments on responses to Examining Authority's proposed schedule of changes to the draft Development Consent Order (dDCO) - Comments on any other information and submissions received at Deadline 5 - Requests from any additional Interested Parties and any additional Affected Persons for a further Open Floor Hearing - Requests from any additional Interested Parties and any additional Affected Persons for a Compulsory Acquisition Hearing 	<p>REP6-xxx</p>
<p>Deadline 7 (D7)</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Comments on the RIES (if published) - Post-Hearing submissions including written submissions of oral case as requested by Examining Authority (relevant only if the Hearings are held) 	<p>REP7-xxx</p>

<ul style="list-style-type: none"> - Comments on responses to Relevant Representations - Comments on Written Representations - Responses to the Examining Authority's Fourth Written Questions (WQ4) - Comments on any other information and submissions received at D6 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules 	
<p>Deadline 8:</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Comments on responses to Examining Authority's Fourth Written Questions (WQ4) - Comments on any other information and submissions received at D7 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - Final Updates from the Applicant - Final Statements of Common Ground - Final Statement of Commonality - Final Guide to the Application - Final draft Development Consent Order (dDCO) in the Statutory Instrument (SI) template with the SI template validation report - Final Explanatory Memorandum - Final Schedule of changes to dDCO - Final Compulsory Acquisition Schedule - Final updated Book of Reference 	<p>REP8-xxx</p>
<p>Other Documents</p> <p>Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents</p>	<p>OD-xxx</p>

EN010109 – Sheringham and Dudgeon Extension Projects**Examination Library****Application Documents****Application Form**

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APP-003	Equinor 1.3 Guide to the Application (and Glossary)
APP-004	Equinor 1.4 Copies of Statutory Newspaper Notices
APP-005	Equinor 1.5 Draft Section 55 Checklist

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APP-240	Equinor 6.3.21.5.1 Environmental Statement Appendix 21.5.1 - Annex 21.5.1 - Offshore Infrastructure Setting Assessment Screening Tables
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APP-254	Equinor 6.3.21.6 Environmental Statement Appendix 21.6 - Priority Archaeological Geophysical Survey (Part 2 of 5)
APP-255	Equinor 6.3.21.6 Environmental Statement Appendix 21.6 - Priority Archaeological Geophysical Survey (Part 3 of 5)
APP-256	Equinor 6.3.21.6 Environmental Statement Appendix 21.6 - Priority Archaeological Geophysical Survey (Part 4 of 5)
APP-257	Equinor 6.3.21.6 Environmental Statement Appendix 21.6 - Priority Archaeological Geophysical Survey (Part 5 of 5)
APP-258	Equinor 6.3.21.7 Environmental Statement Appendix 21.7 - Archaeological and Geoarchaeological Monitoring Assessment
APP-259	Equinor 6.3.22.1 Environmental Statement Appendix 22.1 - Construction Dust and Fine Particulate Matter Assessment Methodology
APP-260	Equinor 6.3.22.2 Environmental Statement Appendix 22.2 - Air Quality Assessment Traffic Data
APP-261	Equinor 6.3.22.3 Environmental Statement Appendix 22.3 - Air Quality Background Pollutant Concentrations
APP-262	Equinor 6.3.22.4 Environmental Statement Appendix 22.4 - Designated Ecological Sites and Critical Level and Load Values in the Air Quality Study Area
APP-263	Equinor 6.3.22.5 Environmental Statement Appendix 22.5 - Air Quality Ecological Receptor Assessment Tables
APP-264	Equinor

	6.3.23.1 Environmental Statement Appendix 23.1 - Baseline Noise Survey
APP-265	Equinor 6.3.23.2 Environmental Statement Appendix 23.2 - Road Traffic Noise Assessment
APP-266	Equinor 6.3.23.3 Environmental Statement Appendix 23.3 - Construction Noise Assessment
APP-267	Equinor 6.3.23.4 Environmental Statement Appendix 23.4 - Onshore Substation Operational Noise Assessment
APP-268	Equinor 6.3.24.1 Environmental Statement Appendix 24.1 - Transport Assessment
APP-269	Equinor 6.3.24.1.1 Environmental Statement Appendix 24.1.1 - Transport Assessment Annexes
APP-270	Equinor 6.3.24.2 Environmental Statement Appendix 24.2 - Abnormal Indivisible Load (AIL) Study
APP-271	Equinor 6.3.24.3 Environmental Statement Appendix 24.3 - Pedestrian Delay Assessment
APP-272	Equinor 6.3.24.4 Environmental Statement Appendix 24.4 - Cumulative Traffic Flows
APP-273	Equinor 6.3.24.5 Environmental Statement Appendix 24.5 - Interaction Between Impacts
APP-274	Equinor 6.3.25.1 Environmental Statement Appendix 25.1 - Seascape and Visual Impact Assessment Annexes
APP-275	Equinor 6.3.26.1 Environmental Statement Appendix 26.1 - Landscape and Visual Impact Assessment Annexes
APP-276	Equinor 6.3.27.1 Environmental Statement Appendix 27.1 - Socio-Economics Construction Costs and Sourcing Assumptions Note
APP-277	Equinor 6.3.27.2 Environmental Statement Appendix 27.2 - Socio-Economics and Tourism Technical Baseline
APP-278	Equinor 6.3.27.3 Environmental Statement Appendix 27.3 - Socio-Economics Impact Assessment
APP-279	Equinor 6.3.28.1 Environmental Statement Appendix 28.1 - Sheringham and Dudgeon Extension Projects EMF Assessment
APP-280	Equinor 6.3.28.2 Environmental Statement Appendix 28.2 - Health Baseline Statistics
Other Reports, Plans and Statements	

APP-281	Equinor 6.4 Environmental Statement - Scoping Report and Scoping Opinion
APP-282	Equinor 6.5 Environmental Statement - Schedule of Mitigation and Mitigation Routemap
APP-283	Equinor 8.1 Cable Statement
APP-284	Equinor 8.2 Safety Zone Statement
APP-285	Equinor 9.1 Planning Statement
APP-286	Equinor 9.1.1 Planning Statement - Appendix 9.1.1 - Details of Other Consents and Licences
APP-287	Equinor 9.3 Design and Access Statement (Onshore)
APP-288	Equinor 9.4 Draft Marine Mammal Mitigation Protocol (MMMP)
APP-289	Equinor 9.5 Offshore In Principle Monitoring Plan (IPMP)
APP-290	Equinor 9.6 In Principle Site Integrity Plan for the Southern North Sea Special Area of Conservation
APP-291	Equinor 9.7 Outline Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) Cable Specification, Installation and Monitoring Plan (CSIMP)
APP-292	Equinor 9.7.1 Appendix 9.7.1 - Interim Cable Burial Study
APP-293	Equinor 9.7.2 Appendix 9.7.2 - Export Cable Burial Risk Assessment
APP-294	Equinor 9.7.3 Appendix 9.7.3 - Cable Protection Decommissioning Feasibility
APP-295	Equinor 9.8 Outline Fisheries Liaison and Co-existence Plan
APP-296	Equinor 9.9 Outline Offshore Operations and Maintenance Plan (OOMP)
APP-297	Equinor 9.10 Outline Project Environmental Management Plan (PEMP)
APP-298	Equinor 9.11 Outline Written Scheme of Investigation (Offshore)
APP-299	Equinor 9.12 Outline Marine Traffic Monitoring Plan
APP-300	Equinor 9.13 Disposal Site Characterisation Report
APP-301	Equinor 9.16 Outline Construction Traffic Management Plan (CTMP)
APP-302	Equinor 9.17 Outline Code of Construction Practice

APP-303	Equinor 9.18 Outline Landscape Management Plan
APP-304	Equinor 9.19 Outline Ecological Management Plan
APP-305	Equinor 9.19.1 Appendix 9.19.1 - Species Legislation and Conservation Status
APP-306	Equinor 9.19.2 Appendix 9.19.2 - Outline Biodiversity Net Gain Strategy
APP-307	Equinor 9.20 Outline Operational Drainage Plan (Onshore Substation)
APP-308	Equinor 9.21 Outline Written Scheme of Investigation (Onshore)
APP-309	Equinor 9.22 Outline Public Rights of Way Strategy
APP-310	Equinor 9.23 Outline Skills and Employment Plan
APP-311	Equinor 9.25 Impacts on the Qualities of Natural Beauty of Norfolk Coast Area of Outstanding Natural Beauty
APP-312	Equinor 9.26 Offshore Design Statement
APP-313	Equinor 9.27 Project Vision
APP-314	Equinor 9.28 Scenarios Statement
Adequacy of Consultation Responses	
AoC-001	Babergh & Mid Suffolk District Councils Adequacy of Consultation Representation
AoC-002	Borough Council of King's Lynn and West Norfolk Adequacy of Consultation Representation
AoC-003	Boston Borough Council Adequacy of Consultation Representation
AoC-004	Broads Authority Adequacy of Consultation Representation
AoC-005	East Suffolk Council Adequacy of Consultation Representation
AoC-006	Great Yarmouth Borough Council Adequacy of Consultation Representation
AoC-007	Norfolk County Council Adequacy of Consultation Representation
AoC-008	North Norfolk District Council Adequacy of Consultation Representation
AoC-009	South Holland District Council Adequacy of Consultation Representation
AoC-010	South Norfolk Council and Broadland District Council Adequacy of Consultation Representation
AoC-011	Suffolk County Council Adequacy of Consultation Representation
Relevant Representations	

RR-001	ADAS Rural on behalf of Tarmac
RR-002	Addleshaw Goddard on behalf of Network Rail Infrastructure Limited
RR-003	Alison Shaw
RR-004	Andrew McCall
RR-005	Ashill Parish Council
RR-006	Barford and Wramplingham Parish Council
RR-007	Bawdeswell Parish Council
RR-008	Bidwells on behalf of Great Melton Farms Limited
RR-009	Bidwells on behalf of John Roger Barnard
RR-010	Bidwells on behalf of Nicholas Edward Evans-Lombe
RR-011	Bidwells on behalf of Peter Gowing & Partners
RR-012	Bidwells on behalf of PSFM Trustees Limited
RR-013	Bidwells on behalf of Robert Alan Barnard
RR-014	Bidwells on behalf of Robert Glover
RR-015	Bidwells on behalf of Sarah Frances Buxton
RR-016	Bidwells on behalf of The Trustees of the Lombe Estate Trust
RR-017	Brown & Co
RR-018	Cadent Gas Limited
RR-019	Cawston Parish Council
RR-020	Ceres Rural on behalf of Trustees of the B E Brooks 1983 Settlement
RR-021	Ceres Rural on behalf of Woodlands Farm
RR-022	Chris Tansley
RR-023	Christopher Hughes
RR-024	Christopher Monk
RR-025	Corporation of Trinity House of Deptford Strond
RR-026	CPRE Norfolk
RR-027	David John Coles
RR-028	East and West Beckham Parish Council
RR-029	East of England Ambulance Service NHS Trust
RR-030	East Suffolk Council
RR-031	Eastern Inshore Fisheries and Conservation Authority
RR-032	Environment Agency
RR-033	Essex Suffolk Norfolk Pylons
RR-034	Frontier Power
RR-035	Garvestone, Reymerston and Thuxton Parish Council
RR-036	Gerald Goldner
RR-037	Great Yarmouth Borough Council
RR-038	Greg Peck
RR-039	Hempstead Parish Council
RR-040	Hevingham Parish Council
RR-041	Historic England
RR-041CR	Historic England
RR-042	Howes Percival LLP on behalf of Mr Clive Hay-Smith
RR-043	Howes Percival LLP on behalf of Priory Holdings Limited
RR-044	IOG plc
RR-045	Jacobs UK Limited on behalf of Anglian Water Services Ltd
RR-045CR	Jacobs U.K. Limited on behalf of Anglian Water Services Limited

RR-046	James Hill
RR-047	Jean Hufton
RR-048	Jonathan Paul Betts
RR-049	Keith Nichols
RR-050	Laurence Tanner-Ashby
RR-051	Lighthouse Development Consulting on behalf of Docking Farm Solar Ltd
RR-052	M.P Kemp Ltd
RR-053	Marine Management Organisation
RR-054	Maritime and Coastguard Agency
RR-055	Mr Derek Aldous
RR-056	Mr Searson
RR-057	National Farmers Union (NFU) (National Farmers Union (NFU))
RR-058	National Grid Electricity Transmission
RR-059	National Grid Gas Plc
RR-060	National Highways
RR-060CR	National Highways
RR-061	National Trust
RR-062	NATS
RR-063	Natural England
RR-064	Norfolk County Council
RR-064CR	Norfolk County Council
RR-065	Norfolk County Council as promoter of Norwich Western Link Road Scheme
RR-066	Norfolk Local Access Forum
RR-067	Norfolk Rivers Internal Drainage Board
RR-068	Norfolk Wildlife Trust
RR-069	North Norfolk District Council
RR-070	North Norfolk Fishermen's Society
RR-071	Novus Renewable Services Limited
RR-072	Orsted Hornsea Project Three (UK) Limited (Orsted Hornsea Project Three (UK) Limited)
RR-073	Oulton Parish Council
RR-074	Outer Dowsing Offshore Wind
RR-075	Paul Andrew Sutton
RR-076	Paul Clarke
RR-077	Paul Cowley
RR-078	Paul Middleton
RR-079	Phil Daniels
RR-080	REAF CIC
RR-081	Reepham Town Council
RR-082	Robert Graver
RR-083	Royal Society for the Protection of Birds (RSPB) (Royal Society for the Protection of Birds (RSPB))
RR-084	RWE Renewables
RR-085	Sandra Betts
RR-086	Sandra Betts on behalf of Norfolk Parishes Movement for an Offshore Transmission Network
RR-087	Savills on behalf of Arthur Wilson (Ltd) (Arthur Wilson (Ltd))
RR-088	Savills on behalf of Betts Family

RR-089	Savills on behalf of D Wegg Esq
RR-090	Savills on behalf of Foster Harrison Farm
RR-091	Savills on behalf of H Steel Esq
RR-092	Savills on behalf of Heydon Nominee Company No1
RR-093	Savills on behalf of J Riley Esq
RR-094	Savills on behalf of John Crane
RR-095	Savills on behalf of Julie Dacre
RR-096	Savills on behalf of Kidd Family
RR-097	Savills on behalf of Mere Farm Mannington Ltd
RR-098	Savills on behalf of Mrs E Thurtle
RR-099	Savills on behalf of Ms A Borrett
RR-100	Savills on behalf of Norwich City College of Further and Higher Education
RR-101	Savills on behalf of Norwich Diocesan Board Of Finance Limited
RR-102	Savills on behalf of Pagepost Limited
RR-103	Savills on behalf of Peddars Pigs Ltd
RR-104	Savills on behalf of S Moores Esq
RR-105	Savills on behalf of The Mutimer Partnership Ltd
RR-106	Savills on behalf of Tim Horner
RR-107	Savills on behalf of Trustees of Sir Charles Mott Radclyffe Will Trust
RR-108	Savills on behalf of Trustees of the William Gurney Charity Trust
RR-109	Savills on behalf of W M Youngs and Son (Farms) Ltd (W M Youngs and Son (Farms) Ltd)
RR-110	Sharon Brooks
RR-111	Steffan Aquarone
RR-112	Susie Tansley
RR-113	Tacolneston Parish Council
RR-114	The Crown Estate
RR-115	The Woodland Trust
RR-116	Timewell Properties Ltd t/a Kelling Heath Holiday Park
RR-117	UK Chamber of Shipping
RR-118	UK Health Security Agency
RR-118CR	UK Health Security Agency
RR-119	Vattenfall
RR-120	Vattenfall Wind Power Limited
RR-121	Weston Longville Parish Council
RR-122	Weybourne Parish Council
RR-123	Yare Power Limited
RR-124	Yvonne Odrowaz-Pieniazek
RR-125CR	The Coal Authority
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 55 Checklist
PD-003	Section 51 advice to the Applicant
PD-004	Notification of the appointment of the Examining Authority
PD-005	Notification of Amendment to the Appointment of the Examining Authority

PD-006	Rule 6 letter - notification of the preliminary meeting and matters to be discussed
PD-007	Letter from the Examining Authority to Mulbarton Parish Council
PD-008	Letter from the Examining Authority to Non-Statutory Stakeholders
PD-009	Rule 8 letter - notification of timetable for the examination
PD-010	Examining Authority's Written Questions (WQ1)
PD-011	Rule 13 - Notification of Hearings - March 2023
PD-012	Examining Authority's Second Written Questions (WQ2)
PD-013	Rule 9 Letter - Examining Authority's Procedural Decision regarding the change request of 7 March 2023
PD-014	Rules 9 and 17 - Notification of Procedural Decision relating to the Applicant's Change Request of 11 April 2023
PD-015	Examining Authority's Proposed Provisions Checklist for Change Request 11 April 2023
PD-016	Rule 13 - Notice of Hearings 21 and 22 June 2023
PD-017	Examining Authority's Third Written Questions (WQ3)
PD-018	Examining Authority's Proposed Changes to the DCO
PD-019	Rule 8(3) Notification of Changes to the Examination Timetable
PD-020	Report on the Implications for European Sites Published by the Examining Authority 16 June 2023
PD-021	Examining Authority's Fourth Written Questions (WQ4)
PD-022	Request for further information - Rule 17
Additional Submissions	
AS-001	Equinor 1.3 Guide to the Application and Glossary - Revision B
AS-002	Equinor 2.3 Land Plans - Revision B
AS-003	Equinor 2.4 Crown Land Plan - Revision B
AS-004	Equinor 2.5 Special Category Land Plan - Revision B
AS-005	Equinor 2.6 Works Plans (Onshore) - Revision B
AS-006	Equinor 2.9 Access to Works Plan - Revision B
AS-007	Equinor 2.10 Streets (to be temporarily stopped up) Plan - Revision B
AS-008	Equinor 2.11 Public Rights of Way (to be temporarily stopped up) Plan - Revision B
AS-009	Equinor 3.1 Draft Development Consent Order (Clean) - Revision B
AS-010	Equinor 3.1.1 Draft Development Consent Order - Revision B (Tracked)
AS-011	Equinor 3.1.2 Schedule of Changes to Revision B of the draft Development Consent Order
AS-012	Equinor 3.2 Explanatory Memorandum (Clean) - Revision B

AS-013	Equinor 3.2.1 Explanatory Memorandum (Tracked) - Revision B
AS-014	Reference not in use
AS-015	Reference not in use
AS-016	Reference not in use
AS-017	Reference not in use
AS-018	Reference not in use
AS-019	Reference not in use
AS-020	Reference not in use
AS-021	Reference not in use
AS-022	Equinor 6.3.4.1 Crossing Schedule - Revision B
AS-023	Equinor 6.3.18.2 Environmental Statement - Appendix 18.2 - Flood Risk Assessment (Part 1 of 8) - Revision B
AS-024	Equinor 6.3.18.2 Environmental Statement - Appendix 18.2 - Flood Risk Assessment (Part 2 of 8) - Revision B
AS-025	Equinor 6.3.18.2 Environmental Statement - Appendix 18.2 - Flood Risk Assessment (Part 3 of 8) - Revision B
AS-026	Equinor 6.3.18.2 Environmental Statement - Appendix 18.2 - Flood Risk Assessment (Part 4 of 8) - Revision B
AS-027	Equinor 6.3.18.2 Environmental Statement - Appendix 18.2 - Flood Risk Assessment (Part 5 of 8) - Revision B
AS-028	Equinor 6.3.18.2 Environmental Statement - Appendix 18.2 - Flood Risk Assessment (Part 6 of 8) - Revision B
AS-029	Equinor 6.3.18.2 Environmental Statement - Appendix 18.2 - Flood Risk Assessment (Part 7 of 8) - Revision B
AS-030	Equinor 6.3.18.2 Environmental Statement - Appendix 18.2 - Flood Risk Assessment (Part 8 of 8) - Revision B
AS-031	Equinor 9.1 Planning Statement - Revision B
AS-032	Equinor 10.1 Pre-examination Response to s51 Advice and Comments of the Planning Inspectorate - Cover Letter
AS-033	Broadland District Council Additional Submission - Accepted at the discretion of the Examining Authority - Relevant Representation
AS-034	South Norfolk Council Additional Submission - Accepted at the discretion of the Examining Authority - Relevant Representation
AS-035	Ministry of Defence Additional Submission - Accepted at the discretion of the Examining Authority
AS-036	Equinor

	Additional Submission - Accepted at the discretion of Examining Authority - Applicant's intention to submit change request
AS-037	Jonas Seafood Limited Additional Submission - Accepted at the discretion of the Examining Authority - Statement of Representation
AS-038	Perenco UK Limited Additional Submission - Accepted at the discretion of the Examining Authority - Statement of Representation from Perenco UK Limited
AS-039	Mareike Erfeling on behalf of the Netherlands Government Additional Submission - Accepted at the discretion of the Examining Authority
AS-040	Natural England Additional Submission - Correspondence between Natural England and the Planning Inspectorate pertaining to Natural England's position on hearing attendance
AS-041	Natural England Additional Submission accepted at the discretion of the Examining Authority - Position Statements in Lieu of Attendance at Issue Specific Hearing 4, Issue Specific Hearing 5 and Issue Specific Hearing 6
AS-042	National Trust Additional Submission accepted at the discretion of the Examining Authority - Position Statement in Lieu of Attendance at Issue Specific Hearing 5
AS-043	NATS Safeguarding Additional Submission accepted at the discretion of the Examining Authority - Position Statement in Lieu of Attendance at Issue Specific Hearing 6
AS-044	Maritime and Coastguard Agency Issue Specific Hearing 6 - Plans accompanying Maritime and Coastguard Agency's Deadline 1 representation
AS-045	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 17.1 Cover Letter - Material Change Request Application
AS-046	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 1.3 Guide to the Application (and Glossary) (Revision E)
AS-047	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 2.1 Location Plan (Onshore) (Revision B)
AS-048	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 2.3 Land Plans (Revision D)
AS-049	Equinor

	Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 2.4 Crown Land Plan (Revision C)
AS-050	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 2.6 Works Plans (Onshore) (Revision D)
AS-051	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 2.9 Access to Works Plan (Revision D)
AS-052	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 2.10 Streets (to be temporarily stopped up) Plan (Revision C)
AS-053	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 2.12 Tree Preservation Order and Hedgerow Plan (Revision C)
AS-054	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 2.17 Habitats of Protected Species Plan (Revision B)
AS-055	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 3.1 Draft Development Consent Order (Revision E) (Clean Version)
AS-056	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 3.1.1 Draft Development Consent Order (Revision E) (Tracked Change Version)
AS-057	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 3.1.2 Schedule of Changes to Revision E of the Draft Development Consent Order
AS-058	Equinor Additional Submission accepted at the discretion of the Examining Authority - 4.1 Book of Reference (Revision D) (Clean Version)
AS-059	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 4.1.1 Book of Reference (Revision D) (Tracked Change Version)
AS-060	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 4.2.2 Addendum to the Funding Statement
AS-061	Equinor

	Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 4.3 Statement of Reasons (Revision C) (Clean Version)
AS-062	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 4.3.1 Statement of Reasons (Revision C) (Tracked Change Version)
AS-063	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 17.2 Supplemental Environmental Information
AS-064	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 17.3 Schedule of Application Documents
AS-065	Equinor Additional Submission accepted at the discretion of the Examining Authority - Applicant's Change Request Application 11 April 2023 - 17.5 Rationale for Making the Proposed Changes
AS-066	North Norfolk District Council Additional Submission accepted at the discretion of the Examining Authority – Position Statement in Lieu of Attendance at Issue Specific Hearing 7
AS-067	National Trust Additional Submission accepted at the discretion of the Examining Authority – Position Statement in Lieu of Attendance at ISH7
Events and Hearings	
Unaccompanied Site Inspection	
EV-001	Note of Unaccompanied Site Inspection 1 – 3 November 2022
EV-027	Note of Unaccompanied Site Inspection 2 - 16 January 2023
EV-027a	Examining Authority's Note of Unaccompanied Site Inspection 30 March 2023
EV-094	Note of Unaccompanied Site Inspection 3 - 20 June 2023
Accompanied Site Inspection	
EV-004	Accompanied Site Inspection itinerary - Thursday 19 January 2023
EV-028	Accompanied Site Inspection 2 Itinerary - Friday 24 March 2023
EV-045	Equinor 6.2.26.1 Supporting Figures to Chapter 26 Landscape and Visual Impact Assessment Figures (Parts 1 to 12)
EV-046	Reference not in use
EV-047	Reference not in use
EV-048	Reference not in use
EV-049	Reference not in use
EV-050	Reference not in use
EV-051	Reference not in use
EV-052	Reference not in use
EV-053	Reference not in use

EV-054	Reference not in use
EV-055	Reference not in use
EV-056	Reference not in use
Preliminary Meeting – 17 January 2023	
EV-006	Recording of Preliminary Meeting - 17 January 2023
EV-007	Preliminary Meeting - Transcript - 17 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008	Preliminary Meeting Note
Open Floor Hearing 1 (OFH1) – 17 January 2023	
EV-002	Agenda for Open Floor Hearing - Tuesday 17 January 2023
EV-009	Recording of Open Floor Hearing 1 (OFH1) - 17 January 2023
EV-010	Open Floor Hearing 1 (OFH1) - Transcript - 17 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 1 (ISH1) – 18 January 2023	
EV-003	Agenda for Issue Specific Hearing 1 - Wednesday 18 January 2023
EV-011	Recording of Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters - Part 1 - 18 January 2023
EV-012	Recording of Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters - Part 2 - 18 January 2023
EV-013	Recording of Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters - Part 3 - 18 January 2023
EV-014	Recording of Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters - Part 4 - 18 January 2023
EV-015	Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters - Part 1 - Transcript - 18 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-016	Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters - Part 2 - Transcript - 18 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-017	Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters - Part 3 - Transcript - 18 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-018	Issue Specific Hearing 1 (ISH1) on Strategic Offshore Matters - Part 4 - Transcript - 18 January 2023

	This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 2 (ISH2) – 20 January 2023	
EV-005	Agenda for Issue Specific Hearing 2 - Friday 20 January 2023
EV-019	Recording of Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters - Part 1 - 20 January 2023
EV-020	Recording of Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters - Part 2 - 20 January 2023
EV-021	Recording of Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters - Part 3 - 20 January 2023
EV-022	Recording of Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters - Part 4 - 20 January 2023
EV-023	Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters - Part 1 - Transcript - 20 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-024	Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters - Part 2 - Transcript - 20 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-025	Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters - Part 3 - Transcript - 20 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-026	Issue Specific Hearing 2 (ISH2) on Strategic Onshore Matters - Part 4 - Transcript - 20 January 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 3 (ISH3) – 22 March 2023	
EV-029	Agenda for Issue Specific Hearing 3 (ISH3) on Onshore Environmental Matters including the DCO - 22 March 2023
EV-035	Recording of Issue Specific Hearing 3 (ISH3) - Part 1 - 22 March 2023
EV-036	Recording of Issue Specific Hearing 3 (ISH3) - Part 2 - 22 March 2023
EV-037	Recording of Issue Specific Hearing 3 (ISH3) - Part 3 - 22 March 2023
EV-038	Recording of Issue Specific Hearing 3 (ISH3) - Part 4 - 22 March 2023
EV-039	Recording of Issue Specific Hearing 3 (ISH3) - Part 5 - 22 March 2023

EV-040	Issue Specific Hearing 3 (ISH3) - Part 1 - Transcript - 22 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-041	Issue Specific Hearing 3 (ISH3) - Part 2 - Transcript - 22 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-042	Issue Specific Hearing 3 (ISH3) - Part 3 - Transcript - 22 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-043	Issue Specific Hearing 3 (ISH3) - Part 4 - Transcript - 22 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-044	Issue Specific Hearing 3 (ISH3) - Part 5 - Transcript - 22 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 4 (ISH4) – 23 March 2023	
EV-030	Agenda for Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - 23 March 2023
EV-057	Recording of Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - Part 1 - 23 March 2023
EV-058	Recording of Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - Part 2 - 23 March 2023
EV-059	Recording of Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - Part 3 - 23 March 2023
EV-060	Recording of Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - Part 4 - 23 March 2023
EV-061	Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - Part 1 - Transcript - 23 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV-062	Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - Part 2 - Transcript - 23 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-063	Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - Part 3 - Transcript - 23 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-064	Issue Specific Hearing 4 (ISH4) on Onshore Environmental Matters including the DCO - Part 4 - Transcript - 23 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Compulsory Acquisition 1 (CAH1) – 29 March 2023	
EV-031	Agenda for Compulsory Acquisition 1 (CAH1) - 29 March 2023
EV-066	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 1 - 29 March 2023
EV-067	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 2 - 29 March 2023
EV-068	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 3 - 29 March 2023
EV-069	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 4 - 29 March 2023
EV-070	Compulsory Acquisition Hearing 1 (CAH1) - Transcript - Part 1 - 29 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-071	Compulsory Acquisition Hearing 1 (CAH1) - Transcript - Part 2 - 29 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-072	Compulsory Acquisition Hearing 1 (CAH1) - Transcript - Part 3 - 29 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-073	Compulsory Acquisition Hearing 1 (CAH1) - Transcript - Part 4 - 29 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence

	voice to text and is unedited. The video recording remains as the primary record of the event.
Open Floor Hearing 2 (OFH2) – 29 March 2023	
EV-032	Agenda for Open Floor Hearing 2 (OFH2) - 29 March 2023
EV-074	Recording of Open Floor Hearing 2 (OFH2) - 29 March 2023
EV-075	Open Floor Hearing 2 (OFH2) - Transcript - 29 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 5 (ISH5) – 30 March 2023	
EV-033	Agenda for Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - 30 March 2023
EV-076	Recording of Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - Part 1 - 30 March 2023
EV-077	Recording of Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - Part 2 - 30 March 2023
EV-078	Recording of Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - Part 3 - 30 March 2023
EV-079	Recording of Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - Part 4 - 30 March 2023
EV-080	Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - Transcript - Part 1 - 30 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-081	Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - Transcript - Part 2 - 30 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-082	Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - Transcript - Part 3 - 30 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-083	Issue Specific Hearing 5 (ISH5) on Offshore Environmental Matters including the DCO - Transcript - Part 4 - 30 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 6 (ISH6) – 31 March 2023	

EV-034	Agenda for Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - 31 March 2023
EV-065	Reference not in use
EV-084	Recording of Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - Part 1 - 31 March 2023
EV-085	Recording of Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - Part 2 - 31 March 2023
EV-086	Recording of Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - Part 3 - 31 March 2023
EV-087	Recording of Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - Part 4 - 31 March 2023
EV-088	Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - Transcript - Part 1 - 31 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-089	Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - Transcript - Part 2 - 31 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-090	Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - Transcript - Part 3 - 31 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-091	Issue Specific Hearing 6 (ISH6) on Offshore Environmental Matters including the DCO - Transcript - Part 4 - 31 March 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 7 (ISH7) - 21 June 2023	
EV-092	Agenda for Issue Specific Hearing 7 (ISH7) - 21 June 2023
EV-095	Recording of Issue Specific Hearing 7 - Session 1 - 21 June 2023
EV-096	Recording of Issue Specific Hearing 7 - Session 2 - 21 June 2023
EV-097	Recording of Issue Specific Hearing 7 - Session 3 - 21 June 2023
EV-098	Recording of Issue Specific Hearing 7 - Session 4 - 21 June 2023
EV-099	Issue Specific Hearing 7 - Transcript - Session 1 - 21 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-100	Issue Specific Hearing 7 - Transcript - Session 2 - 21 June 2023

	This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-101	Issue Specific Hearing 7 - Transcript - Session 3 - 21 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-102	Issue Specific Hearing 7 - Transcript - Session 4 - 21 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Compulsory Acquisition Hearing 2 (CAH2) - 22 June 2023	
EV-093	Agenda for Compulsory Acquisition Hearing 2 (CAH2) - 22 June 2023
EV-103	Recording of Compulsory Acquisition Hearing 2 (CAH2) - Part 1 - 22 June 2023
EV-104	Recording of Compulsory Acquisition Hearing 2 (CAH2) - Part 2 - 22 June 2023
EV-105	Compulsory Acquisition Hearing 2 (CAH2) - Transcript - Part 1 - 22 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-106	Compulsory Acquisition Hearing 2 (CAH2) - Transcript - Part 2 - 22 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Representations	
Procedural Deadline A – 05 January 2023	
PDA-001	Equinor Procedural Deadline A Submission - 11.1 Cover Letter
PDA-002	Equinor Procedural Deadline A Submission - 11.2 Response to ExA Request for a table of the anticipated adverse effects for each proposed scenario
PDA-003	Equinor Procedural Deadline A Submission - 2.7 Works Plans (Offshore) (Revision B)
PDA-004	Equinor Procedural Deadline A Submission - 2.7.1 Explanatory Note to Updated Offshore Works Plans
PDA-005	Equinor

	Procedural Deadline A Submission - 9.28.1 Supplementary Figures to Scenarios Statement
PDA-006	Equinor Procedural Deadline A Submission - ASI1 itinerary for SEP DEP Examination
PDA-007	North Norfolk District Council Procedural Deadline A Submission - Other
PDA-008	Reepham Town Council Procedural Deadline A Submission - Other
PDA-009	Natural England Procedural Deadline A Submission - Any written submission on how the application is to be examined
PDA-010	Norfolk Parishes Movement for an Offshore Transmission Network Procedural Deadline A Submission - Other
PDA-011	Norfolk Parishes Movement for an Offshore Transmission Network Procedural Deadline A Submission - Other
PDA-012	Orsted Hornsea Project Three (UK) Limited Procedural Deadline A Submission - Other
PDA-013	Mr Derek Aldous Procedural Deadline A Submission - Other
PDA-014	Jonathan Paul Betts Procedural Deadline A Submission - Other
PDA-015	Jonathan Paul Betts Procedural Deadline A Submission - Other
PDA-016	Benjamin Shrive Procedural Deadline A Submission - Other

Deadline 1 – 20 February 2023

For receipt by the Examining Authority of:

- Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
- Responses to Relevant Representations
- Written Representations (WR), including summaries of all WRs exceeding 1500 words
- Responses to the Examining Authority's First Written Questions (WQ1)
- Applicant's Compulsory Acquisition Schedule
- Statements of Common Ground
- Applicant's Statement of Commonality
- Local Impact Reports from relevant Local Authorities
- Nominations for sites for Accompanied Site Inspection in March 2023
- Requests for further Open Floor Hearing
- Requests for Compulsory Acquisition Hearing
- Confirmation of wish to attend and speak at the Hearings 22-24 and 29-31 March 2023, including details of topics of discussion
- Any other information requested by the Examining Authority under Rule 17 of the Examination Rules

Updates from the Applicant:

- Guide to the Application
- Draft Development Consent Order (dDCO)
- Explanatory Memorandum
- Schedule of changes to dDCO

REP1-001	Equinor Deadline 1 Submission - 12.47 Cover Letter
REP1-002	Equinor Deadline 1 Submission - 1.3 Guide to the Application (and Glossary) - Revision C
REP1-003	Equinor Deadline 1 Submission - 3.1.1 Draft Development Consent Order (Revision C) (Tracked)
REP1-004	Equinor Deadline 1 Submission - 3.1.2 Schedule of Changes to Revision C of the Draft Development Consent Order
REP1-005	Equinor Deadline 1 Submission - 3.1.3 Proposed Without Prejudice DCO Drafting
REP1-006	Equinor Deadline 1 Submission - 3.2.1 Explanatory Memorandum (Revision C) (Tracked)
REP1-007	Equinor Deadline 1 Submission - 4.1 Book of Reference (Revision B) (Clean)
REP1-008	Equinor Deadline 1 Submission - 4.1.1 Book of Reference (Revision B) (Tracked)
REP1-009	Equinor Deadline 1 Submission - 5.6.4.1 Appendix 4 - Assessment of Potential Impacts on Cromer Shoal Chalk Beds Marine Conservation Zone Features from Planting of Native Oyster Beds (Revision B) (Tracked)
REP1-010	Equinor Deadline 1 Submission - 5.6.4 Appendix 4 - Assessment of Potential Impacts on Cromer Shoal Chalk Beds Marine Conservation Zone Features from Planting of Native Oyster Beds (Revision B) (Clean)
REP1-011	Equinor Deadline 1 Submission - 5.7.1 Appendix 1 In-Principle Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) Measures of Equivalent Environmental Benefit (MEEB) Plan (Revision B) (Clean)
REP1-012	Equinor Deadline 1 Submission - 5.7.1.1 Appendix 1 In-Principle Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) Measures of Equivalent Environmental Benefit (MEEB) Plan (Revision B) (Tracked)
REP1-013	Equinor Deadline 1 Submission - 9.4 Draft Marine Mammal Mitigation Protocol (Revision B) (Clean)
REP1-014	Equinor 9.4.1 Draft Marine Mammal Mitigation Protocol (Revision B) (Tracked)
REP1-015	Equinor

	Deadline 1 Submission - 9.9 Outline Offshore Operations and Maintenance Plan (Revision B) (Clean)
REP1-016	Equinor Deadline 1 Submission - 9.9.1 Outline Offshore Operations and Maintenance Plan (Revision B) (Tracked)
REP1-017	Equinor Deadline 1 Submission - 9.10 Outline Project Environmental Management Plan (Revision B) (Clean)
REP1-018	Equinor Deadline 1 Submission - 9.10.1 Outline Project Environmental Management Plan (Revision B) (Tracked)
REP1-019	Equinor Deadline 1 Submission - 9.13 Disposal Site Characterisation Report (Revision B) (Clean)
REP1-020	Equinor Deadline 1 Submission - 9.13.1 Disposal Site Characterisation Report (Revision B) (Tracked)
REP1-021	Equinor Deadline 1 Submission - 9.16 Outline Construction Traffic Management Plan (Revision B) (Clean)
REP1-022	Equinor Deadline 1 Submission - 9.16.1 Outline Construction Traffic Management Plan (Revision B) (Tracked)
REP1-023	Equinor Deadline 1 Submission - 9.17 Outline Code of Construction Practice (Revision B) (Clean)
REP1-024	Equinor Deadline 1 Submission - 9.17 Outline Code of Construction Practice (Revision B) (Tracked)
REP1-025	Equinor Deadline 1 Submission - 9.18 Outline Landscape Management Plan (Revision B) (Clean)
REP1-026	Equinor Deadline 1 Submission - 9.18.1 Outline Landscape Management Plan (Revision B) (Tracked)
REP1-027	Equinor Deadline 1 Submission - 9.19 Outline Ecological Management Plan (Revision B) (Clean)
REP1-028	Equinor Deadline 1 Submission - 9.19.3 Outline Ecological Management Plan (Revision B) (Tracked)
REP1-029	Equinor Deadline 1 Submission - 9.21 Outline Written Scheme of Investigation (Onshore) (Revision B) (Clean)
REP1-030	Equinor Deadline 1 Submission - 9.21.1 Outline Written Scheme of Investigation (Onshore) (Revision B) (Tracked)
REP1-031	Equinor Deadline 1 Submission - 12.1 Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 1
REP1-032	Equinor

	Deadline 1 Submission - 12.2 Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 2
REP1-040	Equinor Deadline 1 Submission - 12.5 Compulsory Acquisition Schedule
REP1-041	Equinor Deadline 1 Submission - 12.6 Draft Statement of Common Ground (SoCG) with South Norfolk District Council
REP1-042	Equinor Deadline 1 Submission - 12.7 Draft Statement of Common Ground (SoCG) with Broadland District Council
REP1-043	Equinor Deadline 1 Submission - 12.10 Draft Statement of Common Ground (SoCG) with the Environment Agency
REP1-044	Equinor Deadline 1 Submission - 12.11 Draft Statement of Common Ground (SoCG) with the Marine Management Organisation (MMO)
REP1-045	Equinor Deadline 1 Submission - 12.12 Draft Statement of Common Ground (SoCG) with the Maritime and Coastguard Agency
REP1-046	Equinor Deadline 1 Submission - 12.13 Draft Statement of Common Ground (SoCG) with Natural England (Onshore)
REP1-047	Equinor Deadline 1 Submission - 12.15 Draft Statement of Common Ground (SoCG) with Natural England (HRA Derogation)
REP1-048	Equinor Deadline 1 Submission - 12.17 Draft Statement of Common Ground (SoCG) with Norfolk County Council
REP1-049	Equinor Deadline 1 Submission - 12.19 Draft Statement of Common Ground (SoCG) with Trinity House
REP1-050	Equinor Deadline 1 Submission - 12.22 Draft Statement of Common Ground (SoCG) with National Highways
REP1-051	Equinor Deadline 1 Submission - 12.27 Draft Statement of Common Ground (SoCG) with the Ministry of Defence
REP1-052	Equinor Deadline 1 Submission - 12.45 The Applicant's Statement of Commonality
REP1-053	Equinor Deadline 1 Submission - 12.46 The Applicant's Statutory Undertakers Position Statement
REP1-054	Equinor Deadline 1 Submission - 12.48 Open Space Agreements Updates
REP1-055	Equinor Deadline 1 Submission - 13.1 Gateshead Kittiwake Tower Modification - Quantification of Productivity Benefits Technical Note
REP1-056	Equinor

	Deadline 1 Submission - 13.2 Collision Risk Modelling (CRM) Updates (EIA Context) Technical Note
REP1-057	Equinor Deadline 1 Submission - 13.3 Apportioning and Habitats Regulations Assessment Updates Technical Note
REP1-058	Equinor Deadline 1 Submission - 13.4 Sandwich Tern – Quantification of Productivity Benefits Technical Note
REP1-059	Equinor Deadline 1 Submission - 13.5 Marine Processes Technical Note
REP1-060	Equinor Deadline 1 Submission - 13.6 Marine Plan Policy Review
REP1-061	Equinor Deadline 1 Submission - 13.7 Habitats Regulations Assessment Derogation and Compensatory Measures Update
REP1-062	Equinor Deadline 1 Submission - 13.8 Flood Risk and Planning Practice Guidance Technical Note
REP1-063	Equinor Deadline 1 Submission - 13.10 Bats - Alderford Common SSSI and Swannington Upgate Common SSSI Technical Note
REP1-064	Equinor Deadline 1 Submission - 13.13 The Applicant’s Response to Issues Raised at the Open Floor Hearing
REP1-065	Barford & Wrampingham Parish Council Deadline 1 Submission - Written Representations
REP1-066	Broadland District Council Deadline 1 Submission - Local Impact Report
REP1-067	Broadland District Council Deadline 1 Submission - Local Impact Report - Joint Core Strategy for Broadland, Norwich and South Norfolk - Policy 1: Addressing climate change and protecting environmental assets
REP1-068	Broadland District Council Deadline 1 Submission - Local Impact Report - Joint Core Strategy for Broadland, Norwich and South Norfolk - Policy 2: Promoting good design
REP1-069	Broadland District Council Deadline 1 Submission - Local Impact Report - Broadland District Council Development Plan - Environmental Policies EN1, EN2, EN3, EN4 and EN5
REP1-070	Broadland District Council Deadline 1 Submission - Local Impact Report - Broadland District Council Development Plan Policy GC4 Design and GC5 Renewable Energy
REP1-071	Broadland District Council Deadline 1 Submission - Responses to the Examining Authority’s First Written Questions (WQ1)
REP1-072	Cawston Parish Council Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority

REP1-073	Corpusty & Saxthorpe Parish Council Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-074	East Suffolk Council Deadline 1 Submission - Written Representations
REP1-075	East Suffolk Council Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-076	East Suffolk Council Deadline 1 Submission - Local Impact Report
REP1-077	East Suffolk Council Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-078	Norfolk County Council Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1) - Norfolk County Council and Equinor Traffic and Transport Discussions
REP1-079	Norfolk County Council Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-080	Norfolk County Council Deadline 1 Submission - Local Impact Report
REP1-081	North Norfolk District Council Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-082	North Norfolk District Council Deadline 1 Submission - Local Impact Report
REP1-083	Oulton Parish Council Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-084	Oulton Parish Council Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-085	Oulton Parish Council Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-086	Oulton Parish Council Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-087	Oulton Parish Council Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-088	Oulton Parish Council Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-089	Oulton Parish Council

	Deadline 1 Submission - Nominations for sites for Accompanied Site Inspection in March 2023
REP1-090	South Norfolk Council Deadline 1 Submission - Local Impact Report
REP1-091	South Norfolk Council Deadline 1 Submission - Local Impact Report - Joint Core Strategy for Broadland, Norwich and South Norfolk - Policy 1: Addressing climate change and protecting environmental assets
REP1-092	South Norfolk Council Deadline 1 Submission - Local Impact Report - Joint Core Strategy for Broadland, Norwich and South Norfolk - Policy 2: Promoting Good Design
REP1-093	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies - 1.4 Environmental Quality and Local Distinctiveness
REP1-094	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies Document - 3.8 Design Principles
REP1-095	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies Document - 3.13 Amenity, Noise and Quality of Life
REP1-096	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies Document - 3.14 Pollution, Health & Safety
REP1-097	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies Document - 4.4 Natural Environment Assets - Designated and Locally Important Open Space
REP1-098	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies - 4.5 Protection and Enhancement of Landscape Character
REP1-099	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies - 4.8 Protection of Trees and Hedgerows
REP1-100	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies - 4.9 Incorporating Landscape into Design
REP1-101	South Norfolk Council Deadline 1 Submission - Local Impact Report - South Norfolk Local Plan Development Management Policies - 4.10 Heritage Assets
REP1-102	South Norfolk Council

	Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-103	Weybourne Parish Council Deadline 1 Submission - Written Representations
REP1-104	Weybourne Parish Council Deadline 1 Submission - Written Representations
REP1-105	Anglian Water Services Deadline 1 Submission - Written Representations
REP1-106	CPRE Norfolk Deadline 1 Submission - Written Representations
REP1-107	Eastern Inshore Fisheries and Conservation Authority (IFCA) Deadline 1 Submission - Written Representations
REP1-108	Eastern Inshore Fisheries and Conservation Authority (IFCA) Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-109	Eastern Inshore Fisheries and Conservation Authority (IFCA) Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-110	Environment Agency Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1) - Cover Letter
REP1-111	Environment Agency Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-112	Historic England Deadline 1 Submission - Written Representations
REP1-113	Historic England Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-114	Jonas Seafood Ltd Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-115	Jonas Seafood Ltd Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-116	Marine Management Organisation Deadline 1 Submission - Responses to Relevant Representations
REP1-117	Maritime and Coastguard Agency Deadline 1 Submission - Written Representations
REP1-118	Maritime and Coastguard Agency Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-119	Ministry of Defence Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-120	Ministry of Defence Deadline 1 Submission - Safeguarding Position
REP1-121	Ministry of Defence

	Deadline 1 Submission - Updated Safeguarding Position
REP1-122	National Farmers Union Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-123	National Farmers Union Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-124	National Farmers Union Deadline 1 Submission
REP1-125	Bryan Cave Leighton Paisner LLP on behalf of National Gas Transmission plc Deadline 1 Submission - Written Representations
REP1-126	Reference not in use
REP1-127	Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission (NGET) Deadline 1 Submission - Written Representations
REP1-128	Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission (NGET) Deadline 1 Submission - Written Representation, Response to ExA's First Written Questions - Appendix
REP1-129	Reference not in use
REP1-130	Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission PLC (NGET) Deadline 1 Submission - Written Representations
REP1-131	National Highways Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-132	National Highways Deadline 1 Submission - Written Representations
REP1-133	National Trust Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-134	National Trust Deadline 1 Submission - Written Representations
REP1-135	Natural England Deadline 1 Submission - Cover Letter Deadline 1
REP1-136	Natural England Deadline 1 Submission - Appendix A1 -Natural England's Comments on 9.5 SEP and DEP Offshore In-Principle Monitoring Plan
REP1-137	Natural England Deadline 1 Submission - Appendix I1 - Natural England's best practice advice on North Norfolk Coast SPA Pink Footed Geese - February 2023
REP1-138	Natural England Deadline 1 Submission - Appendix K - Natural England's Risk and Issues Log
REP1-139	Natural England Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)

REP1-140	Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited Deadline 1 Submission - Written Representations
REP1-141	Network Rail Infrastructure Limited Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-142	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-143	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-144	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-145	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Written Representations
REP1-146	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-147	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-148	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Nominations for sites for Accompanied Site Inspection in March 2023
REP1-149	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-150	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Written Representations
REP1-151	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-152	Norfolk Parishes Movement for an OTN Deadline 1 Submission - Written Representations
REP1-153	Norfolk Rivers Internal Drainage Board Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-154	Orsted Hornsea Project Three (UK) Limited Deadline 1 Submission - Written Representation, Written Summary of Oral Submissions at ISH1 and Responses to Written Questions
REP1-155	Orsted Hornsea Project Four Limited

	Deadline 1 Submission - Written Representations
REP1-156	Perenco UK Limited Deadline 1 Submission - Written Representations
REP1-157	Perenco UK Limited Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-158	Perenco UK Limited Deadline 1 Submission - Written Representations
REP1-159	Priory Holdings Limited Deadline 1 Submission - Written Representations
REP1-160	BNP Paribas Real Estate on behalf of Royal Mail Group Ltd Deadline 1 Submission - Written Representations
REP1-161	Royal Society for the Protection of Birds Deadline 1 Submission - Written Representations
REP1-162	Royal Society for the Protection of Birds Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-163	Trinity House Deadline 1 Submission - Responses to the Examining Authority's First Written Questions (WQ1)
REP1-164	Woodland Trust Deadline 1 Submission - Written Representations
REP1-165	Alison Shaw Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-166	Chris and Susie Tansley Deadline 1 Submission - Written Representations
REP1-167	Chris and Susie Tansley, Weybourne Forest Lodges Deadline 1 Submission - Written Representations
REP1-168	Christopher Bond on behalf of John Barnard Deadline 1 Submission
REP1-169	Bidwells on behalf of John Barnard Deadline 1 Submission - Written Representations
REP1-170	Keith Nichols Deadline 1 Submission - Written Representations
REP1-171	Mr Clive Hay-Smith Deadline 1 Submission - Written Representations
REP1-172	Howes Percival LLP on behalf of Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited Deadline 1 Submission - Written Representations
REP1-173	Mr Derek Aldous Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-174	Mr Derek Aldous Deadline 1 Submission - Written Representations
REP1-175	Mr Derek Aldous Deadline 1 Submission - Nominations for sites for Accompanied Site Inspection in March 2023
REP1-176	Mr Derek Aldous

	Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-177	Mr Derek Aldous Deadline 1 Submission - Written Representations
REP1-178	Mr Derek Aldous Deadline 1 (D1) Submission - Written Representations
REP1-179	Mr Derek Aldous Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-180	Mr Derek Aldous Deadline 1 Submission - Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-181	Mr Derek Aldous Deadline 1 Submission - Written Representations
REP1-182	Thrings LLP on behalf of Mr Keith Nichols and Mr Philip Hunter Deadline 1 Submission - Written Representations
REP1-183	Paul Middleton Deadline 1 Submission - Written Representations
REP1-184	Bidwells on behalf of Various Clients Deadline 1 Submission - Post-Hearing submissions including written submissions of oral cases as requested by Examining Authority
REP1-185	Christopher Bond on behalf of Various Clients Deadline 1 Submission - Written Representations
REP1-186	Yvonne Odrowaz Deadline 1 Submission - Written Representations
REP1-187	Yvonne Odrowaz Deadline 1 Submission - Written Representations
Late Submissions	
REP1-033	Equinor Deadline 1 Submission - Late Submissions accepted at the discretion of the Examining Authority - 12.3 The Applicant's Comments to Relevant Representations - Part 1
REP1-034	Equinor Deadline 1 Submission - Late Submissions accepted at the discretion of the Examining Authority - 12.3 The Applicant's Comments to Relevant Representations - Part 2
REP1-035	Equinor Deadline 1 Submission - 12.3.1 Appendix A - Supporting Figures for the Applicant's Comments to Relevant Representations
REP1-036	Equinor Deadline 1 Submission - Late Submissions accepted at the discretion of the Examining Authority - 12.4 The Applicant's Responses to the Examining Authority's First Written Questions
REP1-037	Equinor Deadline 1 Submission - Late Submissions accepted at the discretion of the Examining Authority - 12.4.1 Appendix A -

	Supporting Figures for the Applicant's Responses to the Examining Authority's First Written Questions
REP1-038	Equinor Deadline 1 Submission - Late Submissions accepted at the discretion of the Examining Authority - 12.4.2 Appendix B.1 – Supporting Documents for the Applicant's Responses to the Examining Authority's First Written Questions
REP1-039	Equinor Deadline 1 Submission - Late Submissions accepted at the discretion of the Examining Authority - 12.4.2 Appendix B.4 – Supporting Documents for the Applicant's Responses to the Examining Authority's First Written Questions
REP1-188	National Grid Electricity System Operator Limited Deadline 1 Submission - Late Submission accepted at the discretion of the Examining Authority - Written Representation
<p>Deadline 2 – 07 March 2023</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Comments on responses to Relevant Representation - Comments on Written Representations - Comments on responses to the Examining Authority's First Written Questions (WQ1) - Comments on the Local Impact Reports - Comments from Affected Persons on Applicant's Compulsory Acquisition Schedule - Applicant's proposed Accompanied Site Inspection (ASI2) itinerary - Comments on any other information and submissions received at D1 - Any other information requested by the Examining Authority under Rule 17 of the Examination Rules 	
REP2-001	Equinor Deadline 2 Submission - Cover Letter
REP2-001a	Equinor Deadline 2 Submission - 15.1 Cover Letter - Non-Material Change
REP2-002	Equinor Deadline 2 Submission - 1.3 Guide to the Application (and Glossary) (Revision D)
REP2-003	Equinor Deadline 2 Submission - 2.3 Land Plans (Revision C)
REP2-004	Equinor Deadline 2 Submission - 2.6 Works Plans (Onshore) (Revision C)
REP2-005	Equinor Deadline 2 Submission - 2.9 Access to Works Plan (Revision C)
REP2-006	Equinor Deadline 2 Submission - 2.11 Public Rights of Way (to be temporarily stopped up) Plan (Revision C)
REP2-007	Equinor Deadline 2 Submission - 2.12 Tree Preservation Order and Hedgerow Plan (Revision B)
REP2-008	Equinor Deadline 2 Submission - 3.1 Draft Development Consent Order (Revision D) (Clean)
REP2-009	Equinor Deadline 2 Submission - 3.1.1 Draft Development Consent Order (Revision D) (Tracked)

REP2-010	Equinor Deadline 2 Submission - 3.1.2 Schedule of Changes of the draft Development Consent Order (Revision D)
REP2-011	Equinor Deadline 2 Submission - 3.1.3 Proposed Without Prejudice DCO Drafting (Revision B) (Clean)
REP2-012	Equinor Deadline 2 Submission - 3.1.3.1 Proposed Without Prejudice DCO Drafting (Revision B) (Tracked)
REP2-013	Equinor Deadline 2 Submission - 3.2 Explanatory Memorandum (Revision D) (Clean)
REP2-014	Equinor Deadline 2 Submission - 3.2.1 Explanatory Memorandum (Revision D) (Tracked)
REP2-015	Equinor Deadline 2 Submission - 4.1 Book of Reference (Revision C) (Clean)
REP2-016	Equinor Deadline 2 Submission - 4.1.1 Book of Reference (Revision C) (Tracked)
REP2-017	Equinor Deadline 2 Submission - 14.2 The Applicant's Comments on Written Representations
REP2-018	Equinor Deadline 2 Submission - 4.3 Statement of Reasons (Revision B) (Clean)
REP2-019	Equinor Deadline 2 Submission - 4.3.1 Statement of Reasons (Revision B) (Tracked)
REP2-020	Equinor Deadline 2 Submission - 5.7.1 Appendix 1: In-Principle Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) Measures of Equivalent Environmental Benefit (MEEB) Plan (Revision C) (Clean)
REP2-021	Equinor Deadline 2 Submission - 5.7.1.1 Appendix 1: In-Principle Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ) Measures of Equivalent Environmental Benefit (MEEB) Plan (Revision C) (Tracked)
REP2-022	Equinor Deadline 2 Submission - 6.1.19 Environmental Statement - Chapter 19 - Land Use, Agriculture and Recreation (Revision B) (Clean)
REP2-023	Equinor Deadline 2 Submission - 6.1.19.1 Environmental Statement - Chapter 19 - Land Use, Agriculture and Recreation (Revision B) (Tracked)
REP2-024	Equinor

	Deadline 2 Submission - 6.1.20 Environmental Statement - Chapter 20 - Onshore Ecology and Ornithology (Revision B) (Clean)
REP2-025	Equinor Deadline 2 Submission - 6.1.20.1 Environmental Statement - Chapter 20 - Onshore Ecology and Ornithology (Revision B) (Tracked)
REP2-026	Equinor Deadline 2 Submission - 6.2.19 Environmental Statement - Chapter 19 - Figures - Land Use, Agriculture and Recreation (Revision B)
REP2-027	Equinor Deadline 2 Submission - 6.3.18.2.1 Environmental Statement - Appendix 18.2 - Annex 18.2.1 - Onshore Substation Drainage Study (Revision B) (Clean)
REP2-028	Equinor Deadline 2 Submission - 6.3.18.2.1.1 Environmental Statement - Appendix 18.2 - Annex 18.2.1 - Onshore Substation Drainage Study (Revision B) (Tracked)
REP2-029	Equinor Deadline 2 Submission - 9.20 Outline Operational Drainage Strategy (Revision B) (Clean)
REP2-030	Equinor Deadline 2 Submission - 9.20.1 Outline Operational Drainage Strategy (Revision B) (Tracked)
REP2-031	Equinor Deadline 2 Submission - 9.21 Outline Written Scheme of Investigation (Onshore) (Revision C) (Clean)
REP2-032	Equinor Deadline 2 Submission - 9.21.1 Outline Written Scheme of Investigation (Onshore) (Revision C) (Tracked)
REP2-033	Equinor Deadline 2 Submission - 12.17 Draft Statement of Common Ground with Norfolk County Council (Revision B)
REP2-034	Equinor Deadline 2 Submission - 12.45 The Applicant's Statement of Commonality (Revision B) (Clean)
REP2-035	Equinor Deadline 2 Submission - 12.45.1 The Applicant's Statement of Commonality (Revision B) (Tracked)
REP2-036	Equinor Deadline 2 Submission - 13.3 Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision B) (Clean)
REP2-037	Equinor Deadline 2 Submission - 13.3.1 Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision B) (Tracked)
REP2-038	Reference not in use.
REP2-039	Equinor

	Deadline 2 Submission - 14.3 The Applicant's Comments on the Local Impact Reports
REP2-040	Equinor Deadline 2 Submission - 14.4 The Applicant's Comments on Responses to the Examining Authority's First Written Questions
REP2-041	Equinor Deadline 2 Submission - 14.4.1 Supporting Documents to the Applicant's Comments on Responses to the Examining Authority's First Written Questions
REP2-042	Equinor Deadline 2 Submission - 14.5 The Applicant's proposed Accompanied Site Inspection (ASI2) Itinerary
REP2-043	Equinor Deadline 2 Submission - 14.6 The Applicant's Comments on Post-Hearing Submissions
REP2-044	Equinor Deadline 2 Submission - 14.7 Draft Statement of Common Ground with Natural England (Offshore)
REP2-045	Equinor Deadline 2 Submission - 14.8 Draft Statement of Common Ground with Natural England (Offshore Ornithology)
REP2-046	Equinor Deadline 2 Submission - 14.21 Draft Statement of Common Ground with National Trust
REP2-047	Equinor Deadline 2 Submission - 14.22 Draft Statement of Common Ground with UK Chamber of Shipping
REP2-048	Equinor Deadline 2 Submission - 14.23 Draft Statement of Common Ground with North Norfolk District Council
REP2-049	Equinor Deadline 2 Submission - 14.28 Auk Construction Phase Displacement Assessment (EIA Context) Technical Note
REP2-050	Equinor Deadline 2 Submission - 14.29 Report to Inform the Appropriate Assessment (RIAA) (onshore) Technical Note
REP2-051	Equinor Deadline 2 Submission - 14.30 The Applicant's Responses on Relevant Representations: Natural England Marine Mammals (Appendix D)
REP2-052	Equinor Deadline 2 Submission - 14.31 Addendum to the Flood Risk Assessment
REP2-053	Equinor Deadline 2 Submission - 14.32 Addendum to Environmental Statement Chapter 20 Onshore Ecology and Ornithology
REP2-054	Equinor Deadline 2 Submission - 14.33 Flood Risk at Matlaske Road Technical Note
REP2-055	Equinor

	Deadline 2 Submission - 14.34 Onshore Substation Hydraulic Modelling Report
REP2-056	Equinor Deadline 2 Submission - 14.35 Potential Impacts of Vibration Disturbance to Spawning Freshwater Fish Technical Note
REP2-057	North Norfolk District Council Deadline 2 Submission - Cover Letter
REP2-058	North Norfolk District Council Deadline 2 Submission - Comments on responses to the Examining Authority's First Written Questions (WQ1)
REP2-059	Marine Management Organisation Deadline 2 Submission - Comments on any other information and submissions received at D1
REP2-060	Natural England Deadline 2 Submission - Cover Letter
REP2-061	Natural England Deadline 2 Submission - Appendix C1 - Comments on 13.1 Gateshead Kittiwake Tower Modification [REP1-055] and 13.4 Sandwich Tern [REP1-058] - Quantification of Productivity Benefits Technical Notes
REP2-062	Natural England Deadline 2 Submission - Appendix E1 - Advice on [REP1-059] 13.5 Marine Processes Technical Note
REP2-063	Natural England Deadline 2 Submission - Appendix I2 - Advice on the Outline Code of Construction Practice [REP1-024], Landscape Management Plan [REP-026] and Ecological Management Plan [REP-028]
REP2-064	Natural England Deadline 2 Submission - Appendix K1 - Risk and Issues Log
REP2-065	Natural England Deadline 2 Submission - Appendix L1 - Further Response and Comments on Responses by the Applicant [REP1-036] to the Examining Authority's First Written Questions
REP2-066	Norfolk Parishes Movement for an OTN Deadline 2 Submission - Comments on responses to the Examining Authority's First Written Questions (WQ1)
REP2-067	Perenco UK Limited Deadline 2 Submission - Comments on Written Representations
REP2-068	Priory Holdings Limited Deadline 2 Submission - Comments on responses to Relevant Representation
REP2-069	Alison Shaw Deadline 2 Submission - Comments on responses to the Examining Authority's First Written Questions (WQ1)
REP2-070	Mr Clive Hay-Smith Deadline 2 Submission - Comments on responses to Relevant Representation
REP2-071	Mr Derek Aldous Deadline 2 Submission - Comments on the Local Impact Reports
REP2-072	Mr Derek Aldous

	Deadline 2 Submission - Comments on any other information and submissions received at D1
REP2-073	Mr Paul Middleton Deadline 2 Submission - Comments on responses to Relevant Representation
Late Submission	
REP2-074	Norfolk Parishes Movement for an Offshore Transmission Network Deadline 2 Submission - Late Submission accepted at the discretion of the Examining Authority – Comments on responses to the Examining Authority’s Written Questions
Deadline 3 – 03 May 2023	
For receipt by the Examining Authority of:	
<ul style="list-style-type: none"> - Post-hearing submissions, including written summaries of oral submissions to the hearings (if held) - Responses to the Examining Authority’s Second Written Questions (WQ2) (if WQ2 is issued) - Comments on any other information and submissions received at D2 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules 	
Updates from the Applicant:	
<ul style="list-style-type: none"> - Statements of Common Ground - Statement of Commonality - Draft Development Consent Order (dDCO) - Explanatory Memorandum - Schedule of Changes to dDCO - Compulsory Acquisition Schedule 	
REP3-001	Equinor Deadline 3 Submission - Cover Letter
REP3-002	Equinor Deadline 3 Submission - 1.3 Guide to the Application (and Glossary) (Revision F)
REP3-003	Equinor Deadline 3 Submission - 2.4 Crown Land Plan (Revision D)
REP3-004	Equinor Deadline 3 Submission - 2.5 Special Category Land Plan (Revision C)
REP3-005	Equinor Deadline 3 Submission - 2.11 Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - Public Rights of Way (to be temporarily stopped up) Plan (Revision D)
REP3-006	Equinor Deadline 3 Submission - 2.13 Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - Historic Environment Plan (Onshore) (Revision B)
REP3-007	Equinor Deadline 3 Submission - 2.15 Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - Statutory Non-Statutory Nature Conservation Sites (Onshore) (Revision B)
REP3-008	Equinor

	Deadline 3 Submission - 2.18 Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - Water Bodies in a River Basin Management Plan (Revision B)
REP3-009	Equinor Deadline 3 Submission - 3.1 Draft Development Consent Order (Revision F) (Clean)
REP3-010	Equinor Deadline 3 Submission - 3.1.1 Draft Development Consent Order (Revision F) (Tracked - Revisions E F)
REP3-011	Equinor Deadline 3 Submission - 3.1.2 Schedule of Changes to Revision F of the Draft Development Consent Order
REP3-012	Equinor Deadline 3 Submission - 3.1.4 Draft Development Consent Order (Revision F) (Full Tracked - Revision A/F)
REP3-013	Equinor Deadline 3 Submission - 3.2 Explanatory Memorandum (Revision E) (Clean)
REP3-014	Equinor Deadline 3 Submission - 3.2.1 Explanatory Memorandum (Revision E) (Tracked)
REP3-015	Equinor Deadline 3 Submission - 4.1 Book of Reference (Revision E) (Clean)
REP3-016	Equinor Deadline 3 Submission - 4.1.1 Book of Reference (Revision E) (Tracked)
REP3-017	Equinor Deadline 3 Submission - 4.2 Funding Statement (Revision B) (Clean)
REP3-018	Equinor Deadline 3 Submission - 4.2.1 Funding Statement (Revision B) (Tracked)
REP3-019	Equinor Deadline 3 Submission - 4.3 Statement of Reasons (Revision D) (Clean)
REP3-020	Equinor Deadline 3 Submission - 4.3.1 Statement of Reasons (Revision D) (Tracked)
REP3-021	Equinor Deadline 3 Submission - 5.5.4 Appendix 4 - Gannet, Guillemot and Razorbill Compensation Document (Revision B) (Clean)
REP3-022	Equinor Deadline 3 Submission - 5.5.4.2 Appendix 4 - Gannet, Guillemot and Razorbill Compensation Document (Revision B) (Tracked)
REP3-023	Equinor Deadline 3 Submission - 5.5.4.3 Annex 4B - Auk Bycatch Reduction Feasibility Statement
REP3-024	Equinor

	Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.1.4 Environmental Statement - Chapter 4 - Project Description (Revision B) (Clean)
REP3-025	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.1.4.1 Environmental Statement - Chapter 4 Project Description (Revision B) (Tracked)
REP3-026	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.1.20 Environmental Statement - Chapter 20 - Onshore Ecology and Ornithology (Revision C) (Clean)
REP3-027	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.1.20.1 Environmental Statement - Chapter 20 - Onshore Ecology and Ornithology (Revision C) (Tracked)
REP3-028	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.2.4 Environmental Statement - Figures - Chapter 4 - Project Description (Revision B)
REP3-029	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.4.1 Environmental Statement - App 4.1 - Crossing Schedule (Revision C) (Clean)
REP3-030	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.4.1.1 Environmental Statement - App 4.1 - Crossing Schedule (Revision C) (Tracked)
REP3-031	Equinor Deadline 3 Submission - 6.3.13.2 Navigational Safety Technical Note
REP3-032	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.17.1 Environmental Statement - App 17.1 - Land Quality Desk Study and Preliminary Risk Assessment Report (Revision B) (Clean)
REP3-033	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.17.1.1 Environmental Statement - App 17.1 - Land Quality Desk Study and Preliminary Risk Assessment Report (Revision B) (Tracked)
REP3-034	Equinor

	Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.18.1 Environmental Statement - App 18.1 Water Framework Directive Compliance Assessment (Revision B) (Clean)
REP3-035	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.18.1.1 Environmental Statement - App 18.1 Water Framework Directive Compliance Assessment (Revision B) (Tracked)
REP3-036	Equinor Deadline 3 Submission - 6.3.18.2.1 Environmental Statement - App 18.2.1 Onshore Substation Drainage Study Revision C (Clean)
REP3-037	Equinor (PDF, 8 MB) Deadline 3 Submission - 6.3.18.2.1.1 Environmental Statement - App 18.2.1 Onshore Substation Drainage Study Revision C (Tracked)
REP3-038	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.18.3 Environmental Statement - App 18.3 Geomorphological Baseline Survey Technical Report (Revision B) (Clean)
REP3-039	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.18.3.1 Environmental Statement - App 18.3 Geomorphological Baseline Survey Technical Report (Revision B) (Tracked)
REP3-040	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.1 Environmental Statement - App 20.1 Extended Phase 1 Habitat Survey Report (Revision B) (Clean)
REP3-041	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.1.1 Environmental Statement - App 20.1 Extended Phase 1 Habitat Survey Report (Revision B) (Tracked)
REP3-042	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.2 Environmental Statement - App 20.2 - Great Crested Newt Survey Report (Revision B) (Clean)
REP3-043	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.2.1 Environmental Statement - App 20.2 - Great Crested Newt Survey Report (Revision B) (Tracked)
REP3-044	Equinor

	Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.4 Environmental Statement - App 20.4 Wintering Birds Survey Report (Revision B) (Clean)
REP3-045	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.4.1 Environmental Statement - App 20.4 Wintering Birds Survey Report (Revision B) (Tracked)
REP3-046	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.5 Environmental Statement - App 20.5 - Breeding Birds Survey Report (Revision B) (Clean)
REP3-047	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.5.1 Environmental Statement - App 20.5 - Breeding Birds Survey Report (Revision B) (Tracked)
REP3-048	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.6 Environmental Statement - App 20.6 - Initial Biodiversity Net Gain Assessment (Revision B) (Clean)
REP3-049	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.6.1 Environmental Statement - App 20.6 - Initial Biodiversity Net Gain Assessment (Revision B) (Tracked)
REP3-050	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.7 Environmental Statement - App 20.7 - Onshore Ecology Desk Study (Revision B) (Clean)
REP3-051	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.7.1 Environmental Statement - App 20.7 - Onshore Ecology Desk Study (Revision B) (Tracked)
REP3-052	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.9 Environmental Statement - App 20.9 - White Clawed Crayfish Survey Report (Revision B) (Clean)
REP3-053	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.9.1 Environmental Statement - App 20.9 - White Clawed Crayfish Survey Report (Revision B) (Tracked)
REP3-054	Equinor

	Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.13 Environmental Statement - App 20.13 - Riparian Mammal Survey Report (Revision B) (Clean)
REP3-055	Equinor Deadline 3 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - 6.3.20.13.1 Environmental Statement - App 20.13 - Riparian Mammal Survey Report (Revision B) (Tracked)
REP3-056	Equinor Deadline 3 Submission - 9.3 Design and Access Statement (Revision B) (Clean)
REP3-057	Equinor Deadline 3 Submission - 9.3.1 Design and Access Statement (Revision B) (Tracked)
REP3-058	Equinor Deadline 3 Submission - 9.9 Outline Offshore Operations and Maintenance Plan (Revision C) (Clean)
REP3-059	Equinor Deadline 3 Submission - 9.9.1 Outline Offshore Operations and Maintenance Plan (Revision C) (Tracked)
REP3-060	Equinor Deadline 3 Submission - 9.10 Outline Project Environmental Management Plan (Revision C) (Clean)
REP3-061	Equinor Deadline 3 Submission - 9.10.1 Outline Project Environmental Management Plan (Revision C) (Tracked)
REP3-062	Equinor Deadline 3 Submission - 9.16 Outline Construction Traffic Management Plan (Revision C) (Clean)
REP3-063	Equinor Deadline 3 Submission - 9.16.1 Outline Construction Traffic Management Plan (Revision C) (Tracked)
REP3-064	Equinor Deadline 3 Submission - 9.17 Outline Code of Construction Practice (Revision C) (Clean)
REP3-065	Equinor Deadline 3 Submission - 9.17.1 Outline Code of Construction Practice (Revision C) (Tracked)
REP3-066	Equinor Deadline 3 Submission - 9.18 Outline Landscape Management Plan (Revision C) (Clean)
REP3-067	Equinor Deadline 3 Submission - 9.18.1 Outline Landscape Management Plan (Revision C) (Tracked)
REP3-068	Equinor Deadline 3 Submission - 9.19 Outline Ecological Management Plan (Revision C) (Clean)
REP3-069	Equinor Deadline 3 Submission - 9.19.3 Outline Ecological Management Plan (Revision C) (Tracked)

REP3-070	Equinor Deadline 3 Submission - 9.20 Outline Operational Drainage Strategy (Revision C) (Clean)
REP3-071	Equinor Deadline 3 Submission - 9.20.1 Outline Operational Drainage Strategy (Revision C) (Tracked)
REP3-072	Equinor Deadline 3 Submission - 9.23 Outline Skills and Employment Plan (Revision B) (Clean)
REP3-073	Equinor Deadline 3 Submission - 9.23.1 Outline Skills and Employment Plan (Revision B) (Tracked)
REP3-074	Equinor Deadline 3 Submission - 9.28.2 Supplementary Information to the Scenarios Statement
REP3-075	Equinor Deadline 3 Submission - 12.5 Compulsory Acquisition Schedule (Revision B) (Clean)
REP3-076	Equinor Deadline 3 Submission - 12.5.1 Compulsory Acquisition Schedule (Revision B) (Tracked)
REP3-077	Equinor Deadline 3 Submission - 12.10 Draft Statement of Common Ground Environment Agency (Revision B)
REP3-078	Equinor Deadline 3 Submission - 12.11 Draft Statement of Common Ground with Marine Management Organisation (MMO) (Revision B)
REP3-079	Equinor Deadline 3 Submission - 12.12 Draft Statement of Common Ground Maritime and Coastguard Agency (Revision B)
REP3-080	Equinor Deadline 3 Submission - 12.22 Draft Statement of Common Ground with National Highways (Revision B)
REP3-081	Equinor Deadline 3 Submission - 12.45 The Applicant's Statement of Commonality (Revision C) (Clean)
REP3-082	Equinor Deadline 3 Submission - 12.45.1 The Applicant's Statement of Commonality (Revision C) (Tracked)
REP3-083	Equinor Deadline 3 Submission - 12.46 The Applicant's Statutory Undertakers Position Statement (Revision B) (Clean)
REP3-084	Equinor Deadline 3 Submission - 12.46.1 The Applicant's Statutory Undertakers Position Statement (Revision B) (Tracked)
REP3-085	Equinor Deadline 3 Submission - 12.48 Open Space Agreements Updates (Revision B) (Clean)
REP3-086	Equinor

	Deadline 3 Submission - 12.48.1 Open Space Agreements Updates (Revision B) (Tracked)
REP3-087	Equinor Deadline 3 Submission - 13.1 Gateshead Kittiwake Tower Modification Quantification of Productivity Benefits (Revision B) (Clean)
REP3-088	Equinor Deadline 3 Submission - 13.1.1 Gateshead Kittiwake Tower Modification Quantification of Productivity Benefits (Revision B) (Tracked)
REP3-089	Equinor Deadline 3 Submission - 13.2 Collision Risk Modelling (CRM) Updates (EIA Context) Technical Note (Revision B) (Clean)
REP3-090	Equinor Deadline 3 Submission - 13.2.1 Collision Risk Modelling (CRM) Updates (EIA Context) Technical Note (Revision B) (Tracked)
REP3-091	Equinor Deadline 3 Submission - 13.4 Sandwich Tern – Quantification of Productivity Benefits Technical Note (Revision B) (Clean)
REP3-092	Equinor Deadline 3 Submission - 13.4.1 Sandwich Tern – Quantification of Productivity Benefits Technical Note (Revision B) (Tracked)
REP3-093	Equinor Deadline 3 Submission - 13.5 Marine Processes Technical Note (Revision B) (Clean)
REP3-094	Equinor Deadline 3 Submission - 13.5.1 Marine Processes Technical Note (Revision B) (Tracked)
REP3-095	Equinor Deadline 3 Submission - 13.7 Habitats Regulations Assessment Derogation and Compensatory Measures Update (Revision B) (Clean)
REP3-096	Equinor Deadline 3 Submission - 13.7.1 Habitats Regulations Assessment Derogation and Compensatory Measures Update (Revision B) (Tracked)
REP3-097	Equinor Deadline 3 Submission - 14.31 Addendum to the Flood Risk Assessment (Revision B) (Clean)
REP3-098	Equinor Deadline 3 Submission - 14.31.1 Addendum to the Flood Risk Assessment (Revision B) (Tracked)
REP3-099	Equinor Deadline 3 Submission - 14.34 Onshore Substation Hydraulic Modelling Report (Revision B) (Clean)
REP3-100	Equinor Deadline 3 Submission - 14.34.1 Onshore Substation Hydraulic Modelling Report (Revision B) (Tracked)
REP3-101	Equinor Deadline 3 Submission - 16.2 The Applicant's Responses to the Examining Authority's Second Written Questions

REP3-102	Equinor Deadline 3 Submission - 16.2.1 Appendix A - Supporting figures to the Applicant's Responses to the Examining Authority's Second Written Questions
REP3-103	Equinor Deadline 3 Submission - 16.2.2 Appendix B - Supporting documents to the Applicant's Responses to the Examining Authority's Second Written Questions
REP3-104	Equinor Deadline 3 Submission - 16.3 The Applicant's comments on North Norfolk District Council's Response to the ExA's First Written Questions
REP3-105	Equinor Deadline 3 Submission - 16.4 The Applicant's comments on the Marine Management Organisation's Deadline 2 Submission
REP3-106	Equinor Deadline 3 Submission - 16.5 The Applicant's comments on Mr Derek Aldous' Deadline 2 Submission
REP3-107	Equinor (PDF, 3 MB) Deadline 3 Submission - 16.6 The Applicant's comments on Natural England's Deadline 2 Submissions
REP3-108	Equinor Deadline 3 Submission - 16.7 The Applicant's comments on Norfolk Parishes Movement for an Offshore Transmission Network's Deadline 2 Submission
REP3-109	Equinor Deadline 3 Submission - 16.8 Written Summary of the Applicants Oral Submissions at Issue Specific Hearing 3
REP3-110	Equinor Deadline 3 Submission - 16.9 Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 4
REP3-111	Equinor Deadline 3 Submission - 16.10 Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 5
REP3-112	Equinor Deadline 3 Submission - 16.11 Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 6
REP3-113	Equinor Deadline 3 Submission - 16.12 Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 1
REP3-114	Equinor Deadline 3 Submission - 16.13 The Applicant's Response to Issues Raised at the Open Floor Hearing 2
REP3-115	Equinor Deadline 3 Submission - 16.14 Marine Mammals Technical Note and Addendum
REP3-116	Equinor Deadline 3 Submission - 16.16 Statement of Common Ground E EAST Signed
REP3-117	Equinor

	Deadline 3 Submission - 16.17 Draft Statement of Common Ground with EIFCA
REP3-118	Equinor Deadline 3 Submission - 16.23 Draft Statement of Common Ground with Norwich Airport
REP3-119	Equinor Deadline 3 Submission - 16.29 Geoarchaeological Method Statement
REP3-120	Barford and Wrampingham Parish Council Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-121	Broadland District Council Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-122	Cawston Parish Council Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-123	Corpusty and Saxthorpe Parish Council Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-124	Norfolk County Council Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-125	North Norfolk District Council Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-126	Oulton Parish Council Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-127	South Norfolk Council Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-128	Weybourne Parish Council Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-129	Environment Agency Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-130	Historic England Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-131	Jonas Seafood Ltd Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-132	Jonas Seafood Ltd Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-133	Marine Management Organisation Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-134	Maritime and Coastguard Agency

	Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-135	Ministry of Defence (MOD) Deadline 3 Submission - Comments on any other information and submissions received at D2
REP3-136	National Farmers Union Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-137	National Grid Electricity System Operator Limited Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-138	National Highways Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-139	National Highways Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-140	National Trust Deadline 3 Submission - Comments on any other information and submissions received at D2
REP3-141	National Trust Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-142	Natural England Deadline 3 Submission - Cover Letter
REP3-143	Natural England Deadline 3 Submission - Appendix C2 - NE's Advice on Apportioning and HRA Technical Note [REP2-037] and Auk Construction Phase Displacement Assessment [REP2-049] Deadline 3
REP3-144	Natural England Deadline 3 Submission - Appendix I3 - Natural England's Advice on the Bats Technical Note [REP1-063], EMP [REP1-024] and OCoCP [REP1-028] Deadline 3
REP3-145	Natural England Deadline 3 Submission - Appendix I4 - Natural England's Advice on the Onshore Ecology RIAA Technical Note [REP2-050] and Chapter 20 Addendum [REP2-053] Deadline 3
REP3-146	Natural England Deadline 3 Submission - Appendix K2 - Natural England's Risk and Issues Log D3 Update
REP3-147	Natural England Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-148	Network Rail Infrastructure Limited Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-149	Norfolk Coast Area of Outstanding Natural Beauty (AONB) Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-150	Norfolk Parishes Movement for an OTN

	Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-151	Norfolk Parishes Movement for an OTN Deadline 3 Submission - Comments on any other information and submissions received at D2
REP3-152	Norfolk Parishes Movement for an OTN Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-153	Novus Renewable Services Ltd Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-154	Perenco UK Limited Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-155	Perenco UK Limited Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-156	Perenco UK Limited Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-157	Priory Holdings Limited Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-158	Priory Holdings Limited Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-159	Priory Holdings Limited Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-160	Priory Holdings Limited Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-161	RSPB Deadline 3 Submission - Cover Letter
REP3-162	RSPB Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-163	Woodland Trust Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-164	Alison Shaw Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-165	Alison Shaw Deadline 3 Submission - Late submission for Deadline 3 accepted at the discretion of the Examining Authority
REP3-166	Bidwells Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-167	Clive Hay-Smith

	Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-168	Clive Hay-Smith Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-169	Clive Hay-Smith Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-170	John Barnard Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-171	Mr Clive Hay-Smith Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-172	Mr D R Aldous Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-173	Paul Middleton Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-174	Paul Middleton Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-175	Paul Middleton Deadline 3 Submission - Responses to the Examining Authority's Second Written Questions (WQ2)
REP3-176	Paul Middleton Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP3-177	Robert Glover Deadline 3 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
Deadline 4 – 16 May 2023	
For receipt by the Examining Authority of:	
<ul style="list-style-type: none"> - Comments on responses to the Examining Authority's WQ2 (if WQ2 is issued) - Comments on any other information and submissions received at D3 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules 	
REP4-001	Equinor Deadline 4 Submission - Cover Letter
REP4-002	Equinor Deadline 4 Submission - 1.3 Guide to the Application (and Glossary) (Revision G)
REP4-003	Equinor Deadline 4 Submission - 3.1 Draft Development Consent Order (Revision G) (Clean)
REP4-004	Equinor Deadline 4 Submission - 3.1.1 Draft Development Consent Order (Revision G) (Tracked)

REP4-005	Equinor Deadline 4 Submission - 3.1.2 Schedule of Changes to Revision G of the Draft Development Consent Order
REP4-006	Equinor Deadline 4 Submission - 3.1.4 Draft Development Consent Order (Revision G) (Full Tracked - Revision A - G)
REP4-007	Equinor Deadline 4 Submission - 3.2 Explanatory Memorandum (Revision F) (Clean)
REP4-008	Equinor Deadline 4 Submission - 3.2.1 Explanatory Memorandum (Revision F) (Tracked)
REP4-009	Equinor Deadline 4 Submission - 5.4.2 Appendix 2 - Habitats Regulations Assessment Screening Matrices (Revision B) (Clean)
REP4-010	Equinor Deadline 4 Submission - 5.4.2.1 Appendix 2 - Habitats Regulations Assessment Screening Matrices (Revision B) (Tracked)
REP4-011	Equinor Deadline 4 Submission - 5.4.3 Appendix 3 - Habitats Regulations Assessment Integrity Matrices (Revision B) (Clean)
REP4-012	Equinor Deadline 4 Submission - 5.4.3.1 Appendix 3 - Habitats Regulations Assessment Integrity Matrices (Revision B) (Tracked)
REP4-013	Equinor Deadline 4 Submission - 5.4.4 Habitats Regulations Assessment Updates Signposting Note
REP4-014	Equinor Deadline 4 Submission - 9.5 Offshore In-Principle Monitoring Plan (Revision B) (Clean)
REP4-015	Equinor Deadline 4 Submission - 9.5.1 Offshore In-Principle Monitoring Plan (Revision B) (Tracked)
REP4-016	Equinor Deadline 4 Submission - 9.17 Outline Code of Construction Practice (Revision D) (Clean)
REP4-017	Equinor Deadline 4 Submission - 9.17.1 Outline Code of Construction Practice (Revision D) (Tracked)
REP4-018	Equinor Deadline 4 Submission - 12.6 Draft Statement of Common Ground with South Norfolk Council (Revision B)
REP4-019	Equinor Deadline 4 Submission - 12.7 Draft Statement of Common Ground with Broadland District Council (Revision B)
REP4-020	Equinor Deadline 4 Submission - 12.10 Draft Statement of Common Ground with Environment Agency (Revision C)
REP4-021	Equinor

	Deadline 4 Submission - 12.17 Draft Statement of Common Ground with Norfolk County Council (Revision C)
REP4-022	Equinor Deadline 4 Submission - 12.45 The Applicant's Statement of Commonality (Revision D) (Clean)
REP4-023	Equinor Deadline 4 Submission - 12.45.1 The Applicant's Statement of Commonality (Revision D) (Tracked)
REP4-024	Equinor Deadline 4 Submission - 14.21 Draft Statement of Common Ground with National Trust (Revision B)
REP4-025	Equinor Deadline 4 Submission - 16.2.3.1 Response to the ExA's 2WQ 2.17.1.2 - Additional Supporting Material - Onshore Substation Visualisations
REP4-026	Equinor Deadline 4 Submission - 16.24 Draft Statement of Common Ground with Norfolk Wildlife Trust
REP4-027	Equinor Deadline 4 Submission - 16.27 Response to Q2.11.2.2 (a) - (d): Joint Position Statement between the Applicant and Local Planning Authorities covering pre-commencement works
REP4-028	Equinor Deadline 4 Submission - 18.2 The Applicant's Comments on Responses to the ExA's 2WQ
REP4-029	Equinor Deadline 4 Submission - 18.2.1 Appendix A - Supporting documents to the Applicant's Comments on Responses to the ExA's 2WQ
REP4-030	Equinor Deadline 4 Submission - 18.3 The Applicant's Response to North Norfolk District Council Deadline 3 Submission
REP4-031	Equinor Deadline 4 Submission - 18.4 The Applicant's Response to Natural England's Deadline 3 Submission
REP4-032	Equinor Deadline 4 Submission - 18.5 The Applicant's Response to National Trust's Deadline 3 Submission
REP4-033	Equinor Deadline 4 Submission - 18.6 The Applicant's Response to the Maritime and Coastguard Agency's Deadline 3 Submissions
REP4-034	Equinor Deadline 4 Submission - 18.7 The Applicant's Response to the Norfolk Parishes Movement for an Offshore Transmission Network's Deadline 3 Submission
REP4-035	Equinor Deadline 4 Submission - 18.8 The Applicant's Response to National Highways Deadline 3 Submission
REP4-036	Equinor Deadline 4 Submission - 18.9 The Applicant's Response to Novus Renewable Services Limited Deadline 3 Submission

REP4-037	Equinor Deadline 4 Submission - 18.11 The Applicant's Response to the Marine Management Organisation's Deadline 3 Submission
REP4-038	Equinor Deadline 4 Submission - 18.12 The Applicant's Response to the National Farmers Union Deadline 3 Submission
REP4-039	Equinor Deadline 4 Submission - 18.13 Waveney Helicopter Access Supplementary Analysis
REP4-040	Equinor Deadline 4 Submission - 18.14 The Applicant's Comments on Post-Hearing Submissions
REP4-041	Equinor Deadline 4 Submission - 18.15 The Applicant's Response to Mr Derek Aldous' Deadline 3 Submission
REP4-042	Equinor Deadline 4 Submission - 18.16 Review of 2022 Highly Pathogenic Avian Influenza (HPAI) outbreak on relevant UK seabird colonies
REP4-043	Equinor Deadline 4 Submission - 18.17 Response to the Examining Authority's Second Written Question 2.14.1.10 (e&f) - Additional Supporting Material
REP4-044	Norfolk County Council Deadline 4 Submission - Comments on any other information and submissions received at D3
REP4-045	Norfolk County Council Deadline 4 Submission - Comments on Responses to the Examining Authority's WQ2
REP4-046	Norfolk County Council Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority
REP4-047	Maritime & Coastguard Agency Deadline 4 Submission - Comments on any other information and submissions received at D3
REP4-048	Marine Management Organisation Deadline 4 Submission - Comments on any other information and submissions received at D3
REP4-049	Natural England Deadline 4 Submission - Response to Examining Authority's WQ2 and Comments on any other information and submissions received at D3
REP4-050	Perenco UK Limited Deadline 4 Submission
REP4-051	Perenco UK Limited Deadline 4 Submission - Technical Note
REP4-052	Clive Hay-Smith Deadline 4 Submission - Comments on any other information and submissions received at D3
REP4-053	Clive Hay-Smith Deadline 4 Submission - Comments on Responses to the Examining Authority's WQ2

REP4-054	Norfolk Parishes Movement for an OTN Deadline 4 Submission - Comments on any other information and submissions received at D3
REP4-055	Mr D R Aldous Deadline 4 Submission
Late Submissions	
REP4-056	Ardent Management on behalf of Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority
REP4-057	Corpusty and Saxthorpe Parish Council Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority
Deadline 5 – 13 June 2023	
For receipt by the Examining Authority of:	
<ul style="list-style-type: none"> - Responses to the Examining Authority’s Third Written Questions (WQ3) (if WQ3 is issued) - Responses to the Examining Authority’s proposed schedule of changes to the draft Development Consent Order (dDCO) - Comments on any other information and submissions received at Deadline 4 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules 	
Updates from the Applicant:	
<ul style="list-style-type: none"> - Statements of Common Ground - Statement of Commonality - Draft Development Consent Order (dDCO) - Explanatory Memorandum - Schedule of Changes to dDCO - Compulsory Acquisition Schedule 	
REP5-001	Equinor Deadline 5 Submission - 1.3 Guide to the Application (and Glossary) (Revision H)
REP5-002	Equinor Deadline 5 Submission - 2.9 Access to Works Plan (Revision E)
REP5-003	Equinor Deadline 5 Submission - 2.10 Streets (to be temporarily stopped up) Plan (Revision D)
REP5-004	Equinor Deadline 5 Submission - 2.11 Public Rights of Way (to be temporarily stopped up) Plan (Revision E)
REP5-005	Equinor Deadline 5 Submission - 3.1 Development Consent Order (Revision H) (Clean)
REP5-006	Equinor Deadline 5 Submission - 3.1.1 Draft Development Consent Order (Revision H) (Tracked Revision G-H)
REP5-007	Equinor

	Deadline 5 Submission - 3.1.2 Schedule of changes to Revision H of the draft development consent order
REP5-008	Equinor Deadline 5 Submission - 3.1.3 Proposed Without Prejudice DCO Drafting (Revision C) (Clean)
REP5-009	Equinor Deadline 5 Submission - 3.1.3.1 Proposed Without Prejudice DCO Drafting (Revision C) (Tracked)
REP5-010	Equinor Deadline 5 Submission - 3.1.4 Draft Development Consent Order (Revision H) (Full Tracked Revisions A/H)
REP5-011	Equinor 3.2 Explanatory Memorandum (Revision G) (Clean).
REP5-012	Equinor Deadline 5 Submission - 3.2.1 Explanatory Memorandum (Revision F/G) (track)
REP5-013	Equinor Deadline 5 Submission - 3.2.2 Explanatory Memorandum (Tracked - Revision A/G)
REP5-014	Equinor Deadline 5 Submission - 4.1. Book of Reference (Revision F) - Clean
REP5-015	Equinor Deadline 5 Submission - 4.1.1 Book of Reference (Revision F) - Tracked
REP5-016	Equinor Deadline 5 Submission - 4.1.2 Book of Reference - Schedule of Changes (Revision F)
REP5-017	Equinor Deadline 5 Submission - 5.5.4 Appendix 4 - Guillemot and Razorbill Compensation Document (Revision C) (Clean)
REP5-018	Equinor Deadline 5 Submission - 5.5.4.1 Annex 4A - Outline Guillemot and Razorbill Compensation Implementation and Monitoring Plan (Revision B) (Clean)
REP5-019	Equinor Deadline 5 Submission - 5.5.4.1.1 Annex 4A - Outline Guillemot and Razorbill Compensation Implementation and Monitoring Plan (Revision B) (Tracked)
REP5-020	Equinor Deadline 5 Submission - 5.5.4.2 Appendix 4 - Guillemot and Razorbill Compensation Document (Revision C) (Tracked).
REP5-021	Equinor Deadline 5 Submission - 6.1.4 Chapter 4 Project Description (Revision C) (Clean)
REP5-022	Equinor Deadline 5 Submission - 6.1.4.1 Chapter 4 - Project Description (Revision C) (Tracked)
REP5-023	Equinor Deadline 5 Submission - 6.3.19.1 Public Rights of Way and Cycle Route Crossing Schedule (Revision B) (Clean)

REP5-024	Equinor Deadline 5 Submission - 6.3.19.1.1 Public Rights of Way and Cycle Route Crossing Schedule (Revision B) (Tracked)
REP5-025	Equinor Deadline 5 Submission - 6.3.4.1 Environmental Statement - App 4.1 - Crossing Schedule (Revision D) (Clean)
REP5-026	Equinor Deadline 5 Submission - 6.3.4.1.1 Environmental Statement - App 4.1 - Crossing Schedule (Revision D) (Tracked)
REP5-027	Equinor Deadline 5 Submission - 9.16 Outline Construction Traffic Management Plan (Revision D) (Clean)
REP5-028	Equinor Deadline 5 Submission - 9.16.1 Outline Construction Traffic Management Plan (Revision D) (Tracked)
REP5-029	Equinor Deadline 5 Submission - 9.17 Outline Code of Construction Practice (Revision E) (Clean)
REP5-030	Equinor Deadline 5 Submission - 9.17.1 Outline Code of Construction Practice (Revision E) (Tracked).
REP5-031	Equinor Deadline 5 Submission - 9.18 Outline Landscape Management Plan (Revision D) (Clean)
REP5-032	Equinor Deadline 5 Submission - 9.18.1 Outline Landscape Management Plan (Revision D) (Tracked)
REP5-033	Equinor Deadline 5 Submission - 12.17 Draft Statement of Comment Ground with Norfolk County Council (Revision D)
REP5-034	Equinor Deadline 5 Submission - 12.22 Draft Statement of Common Ground with National Highways (Revision C)
REP5-035	Equinor Deadline 5 Submission - 12.45 The Applicant's Statement of Commonality (Revision E) (Clean)
REP5-036	Equinor Deadline 5 Submission - 12.45.1 The Applicant's Statement of Commonality (Revision E) (Tracked)
REP5-037	Equinor Deadline 5 Submission - 12.46 The Applicant's Statutory Undertakers Position Statement (Revision C) (Clean)
REP5-038	Equinor Deadline 5 Submission - 12.46.1 The Applicant's Statutory Undertakers Position Statement (Revision C) (Tracked)
REP5-039	Equinor Deadline 5 Submission - 12.48 Open Space Agreement Updates (Revision C) (Clean)
REP5-040	Equinor Deadline 5 Submission - 12.48.1 Open Space Agreement Updates (Revision C) (Tracked)

REP5-041	Equinor Deadline 5 Submission - 12.5 The Applicant's Compulsory Acquisition Schedule (Revision C) (Clean)
REP5-042	Equinor Deadline 5 Submission - 12.5.1 The Applicant's Compulsory Acquisition Schedule (Revision C) (Tracked)
REP5-043	Equinor Deadline 5 Submission - 13.3 Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision C) (Clean)
REP5-044	Equinor Deadline 5 Submission - 13.3.1 Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision C) (Tracked)
REP5-045	Equinor Deadline 5 Submission - 14.34 Onshore Substation Hydraulic Modelling Report (Revision C) (Clean)
REP5-046	Equinor Deadline 5 Submission - 14.34.1 Onshore Substation Hydraulic Modelling Report (Revision C) (Tracked)
REP5-047	Equinor Deadline 5 Submission - 16.23 Draft Statement of Common Ground with Norwich Airport (Revision B)
REP5-048	Equinor Deadline 5 Submission - 19.1 Cover Letter
REP5-049	Equinor Deadline 5 Submission - 19.2 The Applicant's response to the Examining Authority's Third Written Questions
REP5-050	Equinor Deadline 5 Submission - 19.2.1 Supporting Documents for the Applicant's Responses to the Examining Authority's Third Written Questions
REP5-051	Equinor Deadline 5 Submission - 19.3 The Applicant's response to the ExA's commentary on or proposed schedule of changes to the draft DCO
REP5-052	Equinor Deadline 5 Submission - 19.4 The Applicant's comments on Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited Deadline 4 Submission
REP5-053	Equinor Deadline 5 Submission - 19.5 The Applicant's comments on Marine Management Organisation Deadline 4 Submission
REP5-054	Equinor Deadline 5 Submission - 19.6 The Applicant's comments on Maritime and Coastguard Agency Deadline 4 Submission
REP5-055	Equinor Deadline 5 Submission - 19.7 The Applicant's comments on Mr Derek Aldous Deadline 4 Submission
REP5-056	Equinor

	Deadline 5 Submission - 19.8 The Applicant's Comments on Natural England Deadline 4 Submission
REP5-057	Equinor Deadline 5 Submission - 19.9 The Applicant's comments on Norfolk County Council's Deadline 4 Submission
REP5-058	Equinor Deadline 5 Submission - 19.10 The Applicant's comments on Norfolk Parishes Movement for an OTN Deadline 4 Submission
REP5-059	Equinor Deadline 5 Submission - 19.11 The Applicant's comments on Perenco UK Limited Deadline 4 Submission
REP5-060	Equinor Deadline 5 Submission - 19.12 Draft Statement of Common Ground with Anglian Water
REP5-061	Equinor Deadline 5 Submission - 19.13 Draft Statement of Common Ground with National Farmers Union
REP5-062	Equinor Deadline 5 Submission - 19.19 The Applicant's comments on Corpusty and Saxthorpe Parish Council Deadline 4 Submission
REP5-063	Equinor Deadline 5 Submission - 19.21 Gannet and Auk Cumulative Displacement Updates Technical Note
REP5-064	Equinor Deadline 5 Submission - 19.22 IFP Assessment for Norwich Airport
REP5-065	Equinor Deadline 5 Submission - 19.23 The Applicant's Response to Natural England's Risk and Issues Log Terrestrial Ecology
REP5-066	Equinor Deadline 5 Submission - 19.24 The Applicant's Responses to Relevant Representations on the Material Change Request
REP5-067	Broadland District Council Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-068	East Suffolk Council Deadline 5 (D5) Submission
REP5-069	Norfolk County Council Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-070	Norfolk County Council Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-071	Norfolk County Council Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-072	Norfolk County Council Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-073	South Norfolk Council

	Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-074	Cawston Parish Council Deadline 5 (D5) Submission - Comments on any other information and submissions received at Deadline 4
REP5-075	Corpusty and Saxthorpe PC Deadline 5 (D5) Submission
REP5-076	Corpusty and Saxthorpe PC Deadline 5 (D5) Submission
REP5-077	Oulton Parish Council Deadline 5 (D5) Submission - Other: Response to Applicants submissions
REP5-078	Environment Agency Deadline 5 (D5) Submission
REP5-079	Historic England Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-080	Marine Management Organisation Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-081	Maritime and Coastguard Agency Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-082	Ministry of Defence (MOD) Deadline 5 (D5) Submission
REP5-083	NATIONAL FARMERS UNION Deadline 5 (D5) Submission
REP5-084	BCLP LLP (on behalf of National Grid Electricity Transmission Plc) Deadline 5 (D5) Submission - Other: Written Submission on behalf of National Grid Electricity Transmission Plc
REP5-085	National Highways Deadline 5 (D5) Submission
REP5-086	National Highways Deadline 5 (D5) Submission - Appendix 1 - Response to Applicant's Deadline 4 Submissions
REP5-087	National Highways Deadline 5 (D5) Submission - Appendix 2 - Response to REP4-028
REP5-088	National Trust Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-089	Natural England Deadline 5 (D5) Submission - Other: EN010109 13015 436963 SEP DEP Natural England (NE) Cover Letter Deadline 5
REP5-090	Natural England Deadline 5 (D5) Submission - Other: EN010109 436963 SEP DEP Appendix A2 - Natural England's Further Response to IPMP (Revision B) [REP4-015] Deadline 5
REP5-091	Natural England

	Deadline 5 (D5) Submission - Other: EN010109 436963 SEP DEP Appendix B1 - Natural England's Offshore Ornithology Position at Deadline 5
REP5-092	Natural England Deadline 5 (D5) Submission - Other: EN010109 436963 SEP DEP Appendix C3 - NE Further Response to Offshore Ornithology Compensation D5
REP5-093	Natural England Deadline 5 (D5) Submission - Other: EN010109 436963 SEP DEP Appendix K3 - NE's Risk and Issues Log D5 Update
REP5-094	Natural England Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-095	Norfolk Rivers Internal Drainage Board Deadline 5 (D5) Submission - Responses to the Examining Authority's Third Written Questions (WQ3)
REP5-096	Trinity House Deadline 5 (D5) Submission
REP5-097	UK Chamber of Shipping Deadline 5 (D5) Submission
REP5-098	Mr Clive Hay-Smith Deadline 5 (D5) Submission - Comments on any other information and submissions received at Deadline 4
REP5-099	Mr D R Aldous Deadline 5 (D5) Submission - Comments on any other information and submissions received at Deadline 4
REP5-100	Mr Paul Middleton Deadline 5 (D5) Submission - Comments on any other information and submissions received at Deadline 4
REP5-101	Priory Holdings Limited Deadline 5 (D5) Submission - Comments on any other information and submissions received at Deadline 4
REP5-102	Norfolk Coast Partnership Late submission for Deadline 5 accepted at the discretion of the Examining Authority
Deadline 6 - 20 June 2023	
For receipt by the Examining Authority of:	
<ul style="list-style-type: none"> - Responses to Relevant Representations on material change request - Written Representations on material change request, including summaries of all WRs exceeding 1500 words - Comments on responses to Examining Authority's WQ3 (if WQ3 is issued) - Comments on responses to Examining Authority's proposed schedule of changes to the draft Development Consent Order (dDCO) - Comments on any other information and submissions received at Deadline 5 - Requests from any additional Interested Parties and any additional Affected Persons for a further Open Floor Hearing - Requests from any additional Interested Parties and any additional Affected Persons for a Compulsory Acquisition Hearing 	
REP6-001	Equinor

	Deadline 6 Submission - 1.3 Guide to the Application (and Glossary) (Revision I)
REP6-002	Equinor Deadline 6 Submission - 3.1 Draft Development Consent Order (Revision I) (Clean)
REP6-003	Equinor Deadline 6 Submission - 3.1.1 Draft Development Consent Order (Revision I) (Tracked Revisions H I)
REP6-004	Equinor Deadline 6 Submission - 3.1.2 Schedule of Changes to the draft DCO (Revision I)
REP6-005	Equinor Deadline 6 Submission - 6.2.19 Environmental Statement Chapter 19 Figures - Land Use, Agriculture and Recreation (Revision C)
REP6-006	Equinor Deadline 6 Submission - 12.11 Draft Statement of Common Ground with MMO (Revision C)
REP6-007	Equinor Deadline 6 Submission - 12.45 The Applicant's Statement of Commonality (Revision F) (Clean)
REP6-008	Equinor Deadline 6 Submission - 12.45.1 The Applicant's Statement of Commonality (Revision F) (Tracked)
REP6-009	Equinor Deadline 6 Submission - 13.7 HRA Derogation and Compensatory Measures Update (Revision C) (Clean)
REP6-010	Equinor Deadline 6 Submission - 13.7.1 HRA Derogation and Compensatory Measures Update (Revision C) (Tracked)
REP6-011	Equinor Deadline 6 Submission - 19.13 Draft Statement of Common Ground with National Farmers Union (Revision B)
REP6-012	Equinor Deadline 6 Submission - 20.1 Cover Letter (1)
REP6-013	Equinor Deadline 6 Submission - 20.2 The Applicant's Comments on Responses to the Examining Authority's Third Written Questions
REP6-014	Equinor Deadline 6 Submission - 20.3 The Applicant's comments on the MMO's Deadline 5 Submission
REP6-015	Equinor Deadline 6 Submission - 20.4 The Applicant's comments on Natural England's Deadline 5 Submission
REP6-016	Equinor Deadline 6 Submission - 20.5 The Applicant's comments on National Highways Deadline 5 Submission
REP6-017	Equinor Deadline 6 Submission - 20.6 The Applicant's comments on National Grid Electricity Transmission Plc Deadline 5 Submission
REP6-018	Equinor

	Deadline 6 Submission - 20.8 The Applicant's comments on National Farmers Union's Deadline 5 Submission
REP6-019	Equinor Deadline 6 Submission - 20.9 The Applicant's comments on Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited's Deadline 5 Submission
REP6-020	Equinor Deadline 6 Submission - 20.10 The Applicant's comments on Ministry of Defence Deadline 5 Submission
REP6-021	Equinor Deadline 6 Submission - 20.11 The Applicant's comments on Oulton Parish Council's Deadline 5 Submission
REP6-022	Equinor Deadline 6 Submission - 20.13 The Applicant's comments on Mr Derek Aldous' Deadline 5 Submission
REP6-023	Equinor Deadline 6 Submission - 20.15 The Applicant's comments on Cawston Parish Council's Deadline 5 Submission
REP6-024	Equinor Deadline 6 Submission - 20.16 Evidence to support the Applicant's response to ISH7 Agenda Item 4.ii
REP6-025	Oulton Parish Council Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-026	Marine Management Organisation Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-027	Maritime and Coastguard Agency Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-028	Natural England Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-029	Natural England Deadline 6 (D6) Submission - Other: EN010109 438574 SEP DEP Appendix D1 Natural England's Further Advice on Marine Mammals Technical Note and Addendum [REP3-115] Deadline 6
REP6-030	Norfolk Rivers Internal Drainage Board Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-031	Mr Clive Hay-Smith Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-032	Mr D R Aldous Deadline 6 (D6) Submission - Other - Report on the Implications for European Sites
REP6-033	Orsted Hornsea Project Three (UK) Limited Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-034	Perenco UK Limited

	Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-035	Perenco UK Limited Deadline 6 (D6) Submission - Other: Response to Examiners' Third Written Questions (WQ3): Q3.21.1.6
REP6-036	Perenco UK Limited Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-037	Perenco UK Limited Deadline 6 (D6) Submission - Indicative Economic Assessment
REP6-038	Priory Holdings Limited Deadline 6 (D6) Submission - Comments on any other information and submissions received at Deadline 5
REP6-039	Yvonne Odrowaz Deadline 6 (D6) Submission
<p>Deadline 7 (D7) – 10 July 2023</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Comments on the RIES (if published) - Post-Hearing submissions including written submissions of oral case as requested by Examining Authority (relevant only if the Hearings are held) - Comments on responses to Relevant Representations - Comments on Written Representations - Responses to the Examining Authority's Fourth Written Questions (WQ4) - Comments on any other information and submissions received at D6 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules 	
REP7-001	Equinor Deadline 7 Submission - 1.3 Guide to the Application (and Glossary) (Revision J) - Late Submissions for Deadline 7 accepted at the discretion of the Examining Authority
REP7-002	Equinor Deadline 7 Submission - 2.3 Land Plans (Revision E)
REP7-003	Equinor Deadline 7 Submission - 2.7 Works Plans (Offshore) (Revision C)
REP7-004	Equinor Deadline 7 Submission - 2.7.2 Works Plans (Offshore) (Without Prejudice)
REP7-005	Equinor Deadline 7 Submission - 3.1 Draft Development Consent Order (Revision J) (Clean)
REP7-006	Equinor Deadline 7 Submission - 3.1.1 Draft Development Consent Order (Revision J) (Tracked Revision I-J)
REP7-007	Equinor Deadline 7 Submission - 3.1.2 Schedule of Changes to Revision J of the draft Development Consent Order
REP7-008	Equinor

	Deadline 7 Submission - 3.2 Explanatory Memorandum (Revision H) (Clean)
REP7-009	Equinor Deadline 7 Submission - 3.2.1 Explanatory Memorandum (Tracked - Revisions GH)
REP7-010	Equinor Deadline 7 Submission - 3.2.2 Explanatory Memorandum (Tracked - Revisions AH)
REP7-011	Equinor Deadline 7 Submission - 4.1 Book of Reference (Revision G) (Clean)
REP7-012	Equinor Deadline 7 Submission - 4.1.1 Book of Reference (Revision G) (Tracked)
REP7-013	Equinor Deadline 7 Submission - 4.1.2 Schedule of Changes to Revision G of the Book of Reference
REP7-014	Equinor Deadline 7 Submission - 4.3 Statement of Reasons (Revision E) (Clean)
REP7-015	Equinor Deadline 7 Submission - 4.3.1 Statement of Reasons (Revision E) (Tracked)
REP7-016	Equinor Deadline 7 Submission - 5.5.2 Appendix 2 Sandwich Tern Compensation Document (Revision B) (Clean)
REP7-017	Equinor Deadline 7 Submission - 5.5.2.1 Annex 2A Outline Sandwich Tern Compensation, Implementation and Monitoring Plan (Revision B) (Clean)
REP7-018	Equinor Deadline 7 Submission - 5.5.2.1.1 Annex 2A Outline Sandwich Tern Compensation, Implementation and Monitoring Plan (Revision B) (Tracked)
REP7-019	Equinor Deadline 7 Submission - 5.5.2.3 Appendix 2 Sandwich Tern Compensation Document (Revision B) (Tracked)
REP7-020	Equinor Deadline 7 Submission - 5.5.4 Appendix 4 Guillemot and Razorbill Compensation Document (Revision D) (Clean)
REP7-021	Equinor Deadline 7 Submission - 5.5.4.2 Appendix 4 Guillemot and Razorbill Compensation Document (Revision D) (Tracked)
REP7-022	Equinor Deadline 7 Submission - 5.6.5 Stage 1 Cromer Shoal Chalk Beds MCZ Assessment (Revision B) (Tracked)
REP7-023	Equinor Deadline 7 Submission - 5.6 Stage 1 Cromer Shoal Chalk Beds MCZ Assessment (Revision B) (Clean)
REP7-024	Equinor

	Deadline 7 Submission - 6.3.4.1 ES Appendix 4.1 Crossing Schedule (Revision E) (Clean)
REP7-025	Equinor Deadline 7 Submission - 6.3.4.1.1 ES Appendix 4.1 Crossing Schedule (Revision E) (Tracked)
REP7-026	Equinor Deadline 7 Submission - 6.3.10.2 ES Appendix 10.2 Underwater Noise Modelling Report (Revision B) (Clean)
REP7-027	Equinor Deadline 7 Submission - 6.3.10.2.1 ES Appendix 10.2 Underwater Noise Modelling Report (Revision B) (Tracked)
REP7-028	Equinor Deadline 7 Submission - 9.1.2 Addendum to the Planning Statement - Late Submissions for Deadline 7 accepted at the discretion of the Examining Authority
REP7-029	Equinor Deadline 7 Submission - 9.5 Offshore In-principle Monitoring Plan (Revision C) (Clean)
REP7-030	Equinor Deadline 7 Submission - 9.5.1 Offshore In-principle Monitoring Plan (Revision C) (Tracked)
REP7-031	Equinor Deadline 7 Submission - 9.7 Outline CSCB MCZ CSIMP (Revision B) (Clean)
REP7-032	Equinor Deadline 7 Submission - 9.7.4 Outline CSCB MCZ CSIMP (Revision B) (Tracked)
REP7-033	Equinor Deadline 7 Submission - 9.8 Outline Fisheries Liaison and Co-existence Plan (Revision B) (Clean)
REP7-034	Equinor Deadline 7 Submission - 9.8.1 Outline Fisheries Liaison and Co-existence Plan (Revision B) (Tracked)
REP7-035	Equinor Deadline 7 Submission - 9.10 Outline Project Environmental Management Plan (Revision D) (Clean)
REP7-036	Equinor Deadline 7 Submission - 9.10.1 Outline Project Environmental Management Plan (Revision D) (Tracked)
REP7-037	Equinor Deadline 7 Submission - 9.17 Outline Code of Construction Practice (Revision F) (Clean)
REP7-038	Equinor Deadline 7 Submission - 9.17.1 Outline Code of Construction Practice (Revision F) (Tracked)
REP7-039	Equinor Deadline 7 Submission - 9.19 Outline Ecological Management Plan (Revision D) (Clean)
REP7-040	Equinor

	Deadline 7 Submission - 9.19.3 Outline Ecological Management Plan (Revision D) (Tracked)
REP7-041	Equinor Deadline 7 Submission - 12.6 Final Statement of Common Ground with South Norfolk Council (Revision C) - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-042	Equinor Deadline 7 Submission - 12.7 Final Statement of Common Ground with Broadland District Council (Revision C) - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-043	Equinor Deadline 7 Submission - 12.17 Final Statement of Common Ground with Norfolk County Council (Revision E) - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-044	Equinor Deadline 7 Submission - 12.19 Final Statement of Common Ground with Trinity House (Revision B) - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-045	Equinor Deadline 7 Submission - 12.22 Draft Statement of Common Ground with National Highways (Revision D)
REP7-046	Equinor Deadline 7 Submission - 12.27 Final Statement of Common Ground with Ministry of Defence (Revision B) - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-047	Equinor Deadline 7 Submission - 12.45 The Applicant's Statement of Commonality (Revision G) (Clean)
REP7-048	Equinor Deadline 7 Submission - 12.45.1 The Applicant's Statement of Commonality (Revision G) (Tracked)
REP7-049	Equinor Deadline 7 Submission - 12.46 The Applicant's Statutory Undertakers Position Statement (Revision D) (Clean)
REP7-050	Equinor Deadline 7 Submission - 12.46.1 The Applicant's Statutory Undertakers Position Statement (Revision D) (Tracked)
REP7-051	Equinor Deadline 7 Submission - 13.3 Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision D) (Clean)
REP7-052	Equinor Deadline 7 Submission - 13.3.1 Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision D) (Tracked)
REP7-053	Equinor Deadline 7 Submission - 13.4 Sandwich Tern - Quantification of Productivity Benefits (Revision C) (Clean)
REP7-054	Equinor

	Deadline 7 Submission - 13.4.1 Sandwich Tern - Quantification of Productivity Benefits (Revision C) (Tracked)
REP7-055	Equinor Deadline 7 Submission - 14.22 Final Statement of Common Ground with UK Chamber of Shipping (Revision B) - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-056	Equinor Deadline 7 Submission - 16.14 Marine Mammals Technical Note and Addendum (Revision B) (Clean)
REP7-057	Equinor Deadline 7 Submission - 16.14.1 Marine Mammals Technical Note and Addendum (Revision B) (Tracked)
REP7-058	Equinor Deadline 7 Submission - 16.23 Draft Statement of Common Ground with Norwich Airport (Revision C)
REP7-059	Equinor Deadline 7 Submission - 19.12 Final Statement of Common Ground with Anglian Water (Revision B) - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-060	Equinor Deadline 7 Submission - 20.19 Final Statement of Common Ground with Historic England (Onshore and Offshore) - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-061	Equinor Deadline 7 Submission - 21.1 Cover Letter - Late Submissions for Deadline 7 accepted at the discretion of the Examining Authority
REP7-062	Equinor Deadline 7 Submission - 21.2 The Applicant's Comments on the Report on the Implications for European Sites (RIES)
REP7-063	Equinor Deadline 7 Submission - 21.3 Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 7
REP7-064	Equinor) Deadline 7 Submission - 21.4 Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 2
REP7-065	Equinor Deadline 7 Submission - 21.5 The Applicant's Responses to the Examining Authority's Fourth Written Questions
REP7-066	Equinor Deadline 7 Submission - 21.5.1 Supporting Documents for the Applicant's Responses to the Examining Authority's Fourth Written Questions
REP7-067	Equinor Deadline 7 Submission - 21.6 The Applicant's Comments on National Trust's submission in lieu of attendance at ISH7
REP7-068	Equinor Deadline 7 Submission - 21.7 The Applicant's Comments on Norfolk Coast Partnership Deadline 6 Submission
REP7-069	Equinor

	Deadline 7 Submission - 21.8 The Applicant's Comments on North Norfolk District Council Deadline 6 Submission
REP7-070	Equinor Deadline 7 Submission - 21.9 The Applicant's Comments on Clive Hay-Smith and Priory Holdings Deadline 6 Submission
REP7-071	Equinor Deadline 7 Submission - 21.10 The Applicant's Comments on Mr Derek Aldous Deadline 6 Submission
REP7-072	Equinor Deadline 7 Submission - 21.11 The Applicant's Comments on Maritime and Coastguard Agency Deadline 6 Submission - Late Submissions for Deadline 7 accepted at the discretion of the Examining Authority
REP7-073	Equinor Deadline 7 Submission - 21.12 The Applicant's Comments on Marine Management Organisation Deadline 6 Submission
REP7-074	Equinor Deadline 7 Submission - 21.13 The Applicant's Comments on Natural England Deadline 6 Submission
REP7-075	Equinor Deadline 7 Submission - 2.7.2 Works Plans (Offshore) (Without Prejudice)
REP7-076	Equinor Deadline 7 Submission - 21.14 The Applicant's Comments on Norfolk Rivers IDB Deadline 6 Submission
REP7-077	Equinor Deadline 7 Submission - 21.16 The Applicant's Comments on Oulton Parish Council Deadline 6 Submission
REP7-078	Equinor Deadline 7 Submission - 21.17 The Applicant's Comments on Perenco Deadline 6 Submission
REP7-079	Equinor Deadline 7 Submission - 21.18 The Applicant's Comments on Yvonne Odrowaz Deadline 6 Submission
REP7-080	Equinor Deadline 7 Submission - 21.19 The Applicant's Comments on UK Chamber of Shipping Deadline 5 Submission
REP7-081	Equinor Deadline 7 Submission - 21.20 The Applicant's Comments on Trinity House Deadline 5 Submission
REP7-082	Equinor Deadline 7 Submission - 21.21 Junction Modelling Clarifications Technical Note
REP7-083	Broadland District Council Deadline 7 Submission - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-084	Norfolk County Council Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions (1)
REP7-085	Norfolk County Council

	Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions
REP7-086	Norfolk County Council Deadline 7 Submission - Other: Written Submission - Examination Submission 10 July 2023
REP7-087	Norfolk County Council Deadline 7 Submission - Other: Protective Provisions 10 July 2023
REP7-088	South Norfolk Council Deadline 7 Submission - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-089	Oulton Parish Council Deadline 7 Submission - Other: Cumulative Impacts from Hornsea Three/Vattenfall Norfolk Vanguard/Boreas/SEP/DEP
REP7-090	ADAS Rural Deadline 7 Submission - ADAS Rural
REP7-091	National Highways Deadline 7 Submission - Response to Examining Authority's Fourth Written Questions – National Highways and AECOM Briefing Note
REP7-092	Anglian Water Deadline 7 Submission - Other: Statement of Common Ground
REP7-093	Environment Agency Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions (ExQ4)
REP7-094	Historic England Deadline 7 Submission - Accepted at Deadline 7 at the discretion of the Examining Authority
REP7-095	Marine Management Organisation Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions (WQ4)
REP7-096	Maritime and Coastguard Agency Deadline 7 (D7) Submission - Responses to the Examining Authority's Fourth Written Questions (WQ4)
REP7-097	Ministry of Defence Deadline 7 Submission - Other: Updated Position
REP7-098	Ministry of Defence Deadline 7 Submission - Other: Statement of Common Ground
REP7-099	Ministry of Defence Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions (ExQ4)
REP7-100	Reference not in use
REP7-101	Jonathan Betts/ Norfolk Parishes Movement for an OTN Deadline 7 Submission - Post-Hearing submissions including written submissions of oral case as requested by Examining Authority (relevant only if the Hearings are held)
REP7-102	Norfolk Parishes Movement for an OTN Deadline 7 Submission - Comments on Written Representations
REP7-103	Frontier Power Limited on behalf of Blue Transmission Sheringham Shoal Limited BTSSL Deadline 7 Submission - Withdrawal of Relevant Representation

REP7-104	National Highways Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions (ExQ4)
REP7-105	National Highways Late submission for Deadline 7 accepted at the discretion of the Examining Authority – Response to the ExA's Fourth Written Questions – Protected Provisions Response
REP7-106	National Highways Deadline 7 Submission - Late Submissions for Deadline 7 accepted at the discretion of the Examining Authority
REP7-107	National Trust Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions
REP7-108	Natural England Deadline 7 Submission - Cover Letter
REP7-109	Natural England Deadline 7 Submission - Appendix B2 - Offshore Ornithology Position (Revision 1)
REP7-110	Natural England Deadline 7 Submission - Appendix K4 - Risk and Issues Log
REP7-111	Natural England Deadline 7 Submission - Appendix L5 - Comments on the RIES
REP7-112	Natural England Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions
REP7-113	NFU LIG Deadline 7 Submission - Response to ExQ4 and Outstanding Final Matters
REP7-114	Norfolk Parishes Movement for an OTN Deadline 7 Submission - Comments on Written Representations
REP7-115	Norfolk Parishes Movement for an OTN Deadline 7 Submission - Comments on Written Representations - Offshore CION
REP7-116	Norfolk Rivers Internal Drainage Board Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions
REP7-117	Orsted Hornsea Project Four Limited Deadline 7 Submission - Comments on any other information and submissions received at D6
REP7-118	Orsted Hornsea Project Three (UK) Limited Deadline 7 Submission - Comments on any other information and submissions received at D6
REP7-119	Perenco North Sea Limited Deadline 7 Submission - Post-Hearing submissions including written submissions of oral case as requested by Examining Authority
REP7-120	Perenco North Sea Limited Deadline 7 Submission - Post-Hearing submissions including written submissions of oral case as requested by Examining Authority (relevant only if the Hearings are held)
REP7-121	Perenco North Sea Limited

	Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions
REP7-122	Perenco North Sea Limited Deadline 7 Submission - Post-Hearing submissions including written submissions of oral case as requested by Examining Authority
REP7-123	Priory Holdings Limited Deadline 7 Submission - Comments on any other information and submissions received at D6
REP7-124	Trinity House Deadline 7 Submission - Trinity House
REP7-125	Trinity House Deadline 7 Submission - Responses to the Examining Authority's Fourth Written Questions (ExQ4)
REP7-126	Mr D R Aldous Deadline 7 Submission - Comments on any other information and submissions received at D6
REP7-127	Mr D R Aldous Deadline 7 Submission - Other: Objection in principle
REP7-128	Mr D R Aldous Deadline 7 Submission - Post-Hearing submissions including written submissions of oral case as requested by Examining Authority (relevant only if the Hearings are held)
REP7-129	Christopher Bond-Bidwells Deadline 7 Submission - Post-Hearing submissions including written submissions of oral case as requested by Examining Authority (relevant only if the Hearings are held)
REP7-130	Mr Clive Hay-Smith Deadline 7 Submission - Comments on any other information and submissions received at D6
REP7-131	Equinor Deadline 7 Submission - 21.15 The Applicant's Comments on Orsted Hornsea Project 3 Deadline 6 Submission
<p>Deadline 8 – 17 July 2023</p> <p>For receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> - Comments on responses to Examining Authority's Fourth Written Questions (WQ4) - Comments on any other information and submissions received at D7 - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules - Final Updates from the Applicant - Final Statements of Common Ground - Final Statement of Commonality - Final Guide to the Application 	

- Final draft Development Consent Order (dDCO) in the Statutory Instrument (SI) template with the SI template validation report
- Final Explanatory Memorandum
- Final Schedule of changes to dDCO
- Final Compulsory Acquisition Schedule
- Final updated Book of Reference

REP8-001	Equinor Deadline 8 Submission - Cover Letter
REP8-002	Equinor Deadline 8 Submission - 1.3 Guide to the Application (and Glossary) (Revision K)
REP8-003	Equinor Deadline 8 Submission - 2.7 Works Plans (Offshore) (Revision D)
REP8-004	Equinor Deadline 8 Submission - 2.7.2 Works Plans (Offshore) (Without Prejudice) (Revision B)
REP8-005	Equinor Deadline 8 Submission - 3.1 Draft Development Consent Order (Clean) (Revision K)
REP8-006	Equinor Deadline 8 Submission - 3.1.1 Draft Development Consent Order (Tracked) (Tracked Revision J K)
REP8-007	Equinor Deadline 8 Submission - 3.1.2 Schedule of Changes to Revision K of the draft Development Consent Order
REP8-008	Equinor Deadline 8 Submission - 3.1.3 Proposed Without Prejudice DCO Drafting (Revision D) (Clean)
REP8-009	Equinor Deadline 8 Submission - 3.1.3.1 Proposed Without Prejudice DCO Drafting (Revision D) (Tracked)
REP8-010	Equinor Deadline 8 Submission - 3.1.4 Draft Development Consent Order (Tracked) (Full Tracked Revision A-K)
REP8-011	Equinor Deadline 8 Submission - 3.2 Explanatory Memorandum (Revision I) (Clean)
REP8-012	Equinor Deadline 8 Submission - 3.2.1 Explanatory Memorandum (Revision H_I) (Track)
REP8-013	Equinor Deadline 8 Submission - 3.2.2 Explanatory Memorandum (Revision A-I) (Full Tracked)
REP8-014	Equinor

	Deadline 8 Submission - 4.1 Book of Reference (Revision H) (Clean)
REP8-015	Equinor Deadline 8 Submission - 4.1.1 Book of Reference (Revision H) (Tracked)
REP8-016	Equinor Deadline 8 Submission - 4.1.2 Schedule of Changes to Revision H of the Book of Reference
REP8-017	Equinor Deadline 8 Submission - 5.5.5 Appendix 5 Derogation Funding Statement (Habitats Regulations and Marine and Coastal Access Act) (Revision B) (Clean)
REP8-018	Equinor Deadline 8 Submission - 5.5.5.1 Appendix 5 Derogation Funding Statement (Habitats Regulations and Marine and Coastal Access Act) (Revision B) (Tracked)
REP8-019	Equinor Deadline 8 Submission - 6.3.10.2 ES Appendix 10.2 Underwater Noise Modelling Report (Revision C) (Clean)
REP8-020	Equinor Deadline 8 Submission - 6.3.10.2.1 ES Appendix 10.2 Underwater Noise Modelling Report (Revision C) (Tracked)
REP8-021	Equinor Deadline 8 Submission - 6.5 Schedule of Mitigation and Mitigation Routemap (Revision B) (Clean)
REP8-022	Equinor Deadline 8 Submission - 6.5.1 Schedule of Mitigation and Mitigation Routemap (Revision B) (Tracked)
REP8-023	Equinor Deadline 8 Submission - 9.17 Outline Code of Construction Practice (Revision G) (Clean)
REP8-024	Equinor Deadline 8 Submission - 9.17.1 Outline Code of Construction Practice (Revision G) (Tracked)
REP8-025	Equinor Deadline 8 Submission - 9.19 Outline Ecological Management Plan (Revision E) (Clean)
REP8-026	Equinor Deadline 8 Submission - 9.19.3 Outline Ecological Management Plan (Revision E) (Tracked)
REP8-027	Equinor Deadline 8 Submission - 12.5 The Applicant's Compulsory Acquisition Schedule (Revision D) (Clean)
REP8-028	Equinor Deadline 8 Submission - 12.5.1 The Applicant's Compulsory Acquisition Schedule (Revision D) (Tracked)
REP8-029	Equinor Deadline 8 Submission - 12.10 Final Statement of Common Ground with Environment Agency (Revision D)
REP8-030	Equinor

	Deadline 8 Submission - 12.11 Final Statement of Common Ground with Marine Management Organisation (Revision D)
REP8-031	Equinor Deadline 8 Submission - 12.13 Final Statement of Common Ground with Natural England (Onshore) (Revision B)
REP8-032	Equinor Deadline 8 Submission - 12.15 Final Statement of Common Ground with Natural England (HRA Derogation) (Revision B)
REP8-033	Equinor Deadline 8 Submission - 12.22 Final Statement of Common Ground with National Highways (Revision E)
REP8-034	Equinor Deadline 8 Submission - 12.45 The Applicant's Statement of Commonality (Revision H) (Clean)
REP8-035	Equinor Deadline 8 Submission - 12.45.1 The Applicant's Statement of Commonality (Revision H) (Tracked)
REP8-036	Equinor Deadline 8 Submission - 12.46 The Applicant's Statutory Undertakers Position Statement (Revision E) (Clean)
REP8-037	Equinor Deadline 8 Submission - 12.46.1 The Applicant's Statutory Undertakers Position Statement (Revision E) (Tracked)
REP8-038	Equinor Deadline 8 Submission - 13.3 Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision E) (Clean)
REP8-039	Equinor Deadline 8 Submission - 13.3.1 Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision E) (Tracked)
REP8-040	Equinor Deadline 8 Submission - 13.7 Habitats Regulations Assessment Derogation and Compensatory Measures Update (Revision D) (Clean)
REP8-041	Equinor Deadline 8 Submission - 13.7.1 Habitats Regulation Assessment Derogation and Compensatory Measures Update (Revision D) (Tracked)
REP8-042	Equinor Deadline 8 Submission - 14.7 Final Statement of Common Ground with Natural England (Offshore) (Revision B)
REP8-043	Equinor Deadline 8 Submission - 14.8 Final Statement of Common Ground with Natural England (Offshore Ornithology) (Revision B)
REP8-044	Equinor Deadline 8 Submission - 14.21 Final Statement of Common Ground with National Trust (Revision C)
REP8-045	Equinor Deadline 8 Submission - 14.23 Final Statement of Common Ground with North Norfolk District Council (Revision B)

REP8-046	Equinor Deadline 8 Submission - 16.17 Final Statement of Common Ground with Eastern Inshore Fisheries and Conservation Authority (Revision B)
REP8-047	Equinor Deadline 8 Submission - 16.23 Final Statement of Common Ground with Norwich Airport (Revision D)
REP8-048	Equinor Deadline 8 Submission - 16.24 Final Statement of Common Ground with Norfolk Wildlife Trust (Revision B)
REP8-049	Equinor Deadline 8 Submission - 19.13 Final Statement of Common Ground with National Farmers Union (Revision C)
REP8-050	Equinor Deadline 8 Submission - 19.22 Instrument Flight Procedures Assessment for Norwich Airport (Revision B)
REP8-051	Equinor Deadline 8 Submission - 20.7 Final Statement of Common Ground with Norwich Western Link
REP8-052	Equinor Deadline 8 Submission - 22.2 The Applicant's Response to the Examining Authority's Rule 17 Letter dated 12 July 2023
REP8-053	Equinor Deadline 8 Submission - 22.3 The Applicant's Comments on the Environment Agency's Deadline 7 Submission
REP8-054	Equinor Deadline 8 Submission - 22.4 The Applicant's Comments on National Highways Deadline 7 Submission
REP8-055	Equinor Deadline 8 Submission - 22.4.1 The Applicant's Response to National Highways' Serious Detriment Submission
REP8-056	Equinor Deadline 8 Submission - 22.5 The Applicant's Comments on Norfolk County Council Deadline 7 Submission
REP8-057	Equinor Deadline 8 Submission - 22.6 The Applicant's Comments on Norwich Western Link's Deadline 7 Submission
REP8-058	Equinor Deadline 8 Submission - 22.7 The Applicant's Comments on Orsted Hornsea Project Three Deadline 7 Submission
REP8-059	Equinor Deadline 8 Submission - 22.8 The Applicant's Comments on Orsted Hornsea Project Four Deadline 7 Submission
REP8-060	Equinor Deadline 8 Submission - 22.9 The Applicant's Comments on Marine Management Organisation Deadline 7 Submission
REP8-061	Equinor Deadline 8 Submission - 22.10 The Applicant's Response to Natural England's Risk and Issues Log
REP8-062	Equinor Deadline 8 Submission - 22.11 The Applicant's Closing Statement

REP8-063	Equinor Deadline 8 Submission - 22.12 Final Joint Position Statement on Open Space Agreements between the Applicant and Norfolk County Council
REP8-064	Equinor Deadline 8 Submission - 22.13 The Applicant's Position Statement on Open Space Agreements with Broadland District Council
REP8-065	Equinor Deadline 8 Submission - 22.14 Final Joint Position Statement on Open Space Agreements between the Applicant and Louise Savory
REP8-066	Equinor (PDF, 689 KB) Deadline 8 Submission - 22.15 The Applicant's Comments on Trinity House's Deadline 7 Submission
REP8-067	Equinor Deadline 8 Submission - 22.16 The Applicant's Comments on Natural England's Deadline 7 Submission
REP8-068	Equinor Deadline 8 Submission - 22.17 The Applicant's Comments on National Trust's Deadline 7 Submission
REP8-069	Equinor Deadline 8 Submission - 22.19 The Applicant's further comments to the Examining Authority's Fourth Written Questions
REP8-070	Equinor Deadline 8 Submission - 22.22 The Applicant's Comments on the NFU and LIG Deadline 7 Submission
REP8-071	Equinor Deadline 8 Submission - 22.23 The Applicant's Comments on Christopher Bond's Deadline 7 Submission
REP8-072	Equinor Deadline 8 Submission - 22.24 The Applicant's Comments on Norfolk Parishes Movement for an OTN Deadline 7 Submission
REP8-073	Equinor Deadline 8 Submission - 22.25 The Applicant's Comments on the Maritime and Coastguard Agency's Deadline 7 Submission
REP8-074	Equinor Deadline 8 Submission - 22.26 The Applicant's Comments on the Ministry of Defence Deadline 7 Submission
REP8-075	Equinor Deadline 8 Submission - 22.27 The Applicant's Comments on Clive Hay-Smith and Priory Holdings Limited's Deadline 7 Submission
REP8-076	Equinor Deadline 8 Submission - 22.28 The Applicant's Comments on Mr Derek Aldous' Deadline 7 Submission
REP8-077	Equinor Deadline 8 Submission - 22.29 Joint Statement between Orsted and Equinor
REP8-078	Equinor Deadline 8 Submission - 22.31 The Applicant's Comments on Oulton Parish Council Deadline 7 Submission

REP8-079	Equinor Deadline 8 Submission - 22.32 The Applicant's Comments on Perenco Deadline 7 Submission
REP8-080	Cawston Parish Council Deadline 8 Submission - Other: Final comments on experiences with consented DCOs
REP8-081	Norfolk County Council Deadline 8 Submission - Comments on responses to Examining Authority's Fourth Written Questions (WQ4)
REP8-082	Norfolk County Council Deadline 8 submission – Other: Agreed Protective Provisions
REP8-083	North Norfolk District Council Deadline 8 Submission - Final Statements of Common Ground
REP8-084	Weybourne Parish Council Deadline 8 Submission - Other: Final submission from Weybourne Parish Council highlighting the impact on the local community and environment
REP8-085	Cadent Gas Limited Deadline 8 Submission - Other: Withdrawal of Objection
REP8-086	East of England Ambulance Service NHS Trust (EEAST) Deadline 8 Submission - Final Statements of Common Ground
REP8-087	Eastern Inshore Fisheries and Conservation Authorities Deadline 8 Submission - Other: Response to ExA's Third Written Questions
REP8-088	Eastern Inshore Fisheries and Conservation Authorities Deadline 8 Submission - Other: Response to Examining Authorities Third Written Questions
REP8-089	Eastern Inshore Fisheries and Conservation Authority Deadline 8 Submission - Final Statements of Common Ground
REP8-090	Eastern Power Networks Plc Deadline 8 Submission - Other: Representation on status of agreement regarding Protective Provisions
REP8-091	Environment Agency Deadline 8 Submission - Comments on responses to Examining Authority's Fourth Written Questions (WQ4)
REP8-092	Marine Management Organisation Deadline 8 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules
REP8-093	Maritime and Coastguard Agency Deadline 8 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules
REP8-094	National Farmers Union Deadline 8 Submission - Final Statements of Common Ground
REP8-095	National Gas Transmission Plc Deadline 8 Submission
REP8-096	National Grid Electricity Transmission Plc Deadline 8 Submission
REP8-097	National Highways Deadline 8 Submission - Final Statements of Common Ground
REP8-098	National Trust Deadline 8 Submission - Final Statements of Common Ground

REP8-099	Natural England Deadline 8 Submission - Cover Letter
REP8-100	Natural England Deadline 8 Submission - Other: Appendix A1 - Further Advice on the Development Consent Order
REP8-101	Natural England Deadline 8 Submission - Other: Appendix A3 - Further Response to In-principle Monitoring Plan (Revision C) [REP7-030]
REP8-102	Natural England Deadline 8 Submission - Other: Appendix B3 - Natural England's Offshore Ornithology Position (Revision 2)
REP8-103	Natural England Deadline 8 Submission - Other: Appendix C4 - Natural England's End of Examination Position on the Applicant's Proposed Compensatory Measures
REP8-104	Natural England Deadline 8 Submission - Other: Appendix D2 - Further Advice on Marine Mammals Technical Note and Addendum
REP8-105	Natural England Deadline 8 Submission - Other: Appendix G1 - Cromer MCZ Advice
REP8-106	Natural England Deadline 8 Submission - Other: Appendix I5 – North Norfolk Council SPA and River Wensum SAC Summary Position
REP8-107	Natural England Deadline 8 Submission - Other: Appendix K5 - Risk and Issues Log D8 Update
REP8-108	Natural England Deadline 8 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules
REP8-109	Network Rail Infrastructure Limited Deadline 8 Submission - Other: Position Statement on Protective Provisions
REP8-110	Network Rail Infrastructure Limited Deadline 8 Submission - Other: Position Statement on Protective Provisions
REP8-111	Norfolk Rivers Internal Drainage Board Deadline 8 Submission - Other: Confirmation of Protective Provision agreement
REP8-112	Norfolk Wildlife Trust Deadline 8 Submission - Final Statements of Common Ground
REP8-113	Orsted Hornsea Project Four Limited Deadline 8 Submission - Comments on any other information and submissions received at D7
REP8-114	Orsted Hornsea Project Three (UK) Limited and Orsted Hornsea Project Four Limited Deadline 8 Submission - Comments on any other information and submissions received at D7
REP8-115	Perenco North Sea Limited Deadline 8 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules

REP8-116	Royal Society for the Protection of Birds Deadline 8 Submission - Comments on responses to Examining Authority's Fourth Written Questions (WQ4)
REP8-117	Royal Society for the Protection of Birds Deadline 8 Submission - Cover Letter
REP8-118	The Crown Estate Deadline 8 Submission - Final draft Development Consent Order (dDCO) in the Statutory Instrument (SI) template with the SI template validation report
REP8-119	Trinity House Deadline 8 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules
REP8-120	Trinity House Deadline 8 Submission - Comments on responses to Examining Authority's Fourth Written Questions (WQ4)
REP8-121	UK Chamber of Shipping Deadline 8 Submission - Any further information requested by the Examining Authority under Rule 17 of the Examination Rules
REP8-122	Vattenfall Deadline 8 Submission - Other: Withdrawal of Objection
REP8-123	Muckleburgh Estates Deadline 8 Submission - Comments on responses to Examining Authority's Fourth Written Questions (WQ4)
REP8-124	Norfolk Parishes Movement for an OTN Deadline 8 Submission - Comments on any other information and submissions received at D7
REP8-125	Mr D R Aldous Deadline 8 Submission - Comments on any other information and submissions received at D7
REP8-126	Mr D R Aldous Deadline 8 Submission - Other: Final comments
Other Documents	
OD-001	London Gazette Notice
OD-002	Regulation 32 notification response - Belgium
OD-003	Regulation 32 Transboundary Screening
OD-004	Equinor Section 56 Notice
OD-005	Equinor Section 56 Compliance Certificate
OD-006	Equinor Certificate of Compliance with Section 59
OD-007	Equinor Certificate of Compliance with Regulation 16
OD-008	Equinor Certificate of Compliance with Regulation 9(a)
OD-009	Equinor Certificate of Compliance with Regulation 9(b)

APPENDIX C: ABBREVIATIONS LIST

Abbreviation	Full Reference
A47 North Tuddenham Project	A47 North Tuddenham to East Development Consent Order 2022
ABP	Associated British Ports
ADD	Acoustic Deterrent Devices
AEoI	Adverse Effect on Integrity
AEZ	Archaeological Exclusion Zone
AfL	Areas for Lease
ALARP	As Low as Reasonably Practicable
ALO	Agricultural Liaison Officer
AN	Advice Note
ANCB	Appropriate Nature Conservation Body
AoD	Above Ordnance Datum
AoNB	Area of Outstanding Natural Beauty
AP	Affected Person
APFP	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
Applicant	Equinor New Energies Limited
AQMA	Air Quality Management Area
ASI	Accompanied Site Inspection
ATC	Air Traffic Control
ATCSMAC	Air Traffic Control Surveillance Minimum Altitude Chart
BAP	Biodiversity Action Plan
BBP	Bentonite Breakout Plan
BDC	Broadland District Council
BDMPS	Biologically Defined Minimum Population Scale
BEIS	Department for Business, Energy and Industrial Strategy
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BNL	Base Noise Level

BoR	Book of Reference
BPM	Best Practice Measures
BS	British Standard
CA	Compulsory Acquisition
CAA	Civil Aviation Authority
CAH	Compulsory Acquisition Hearing
CA Regulations	Infrastructure Planning (Compulsory Acquisition) Regulations 2010
CBS	Concrete Batching System
CCA2008	Climate Changes Act 2008
CEA	Cumulative Effects Assessment
Cefas	Centre for Environment Fisheries and Aquaculture Science
CEMP	Construction Environmental Management Plan
CfD	Government-led Contracts for Difference scheme
CGR	Counterfactual of Growth Rate
CI	Upper Confidence Intervals
CIL	Community Infrastructure Levy
CION	Connections and Infrastructure Options Note
cm	Centimetres
CNMP	Construction Noise Management Plan
CoCP	Code of Construction Practice
COLREGs	International Regulations for Preventing Collisions at Sea
CoPA1974	Control of Pollution Act 1974
CPA	Construction Practice Addendum
CPS	Counterfactual of Population Size
CRM	Collision Risk Modelling
CSCB	Cromer Shoal Chalk Beds
CSIMP	Cable Specification, Installation and Monitoring Plan
CTMP	Construction Traffic Management Plan

CTMPco	Construction Traffic Management Plan Co-ordinator
D	Deadline
DAS	Design and Access Statement
DCLG	Department for Communities and Local Government
DCO	Development Consent Order
dDCO	draft Development Consent Order
Defra	Department for the Environment, Food and Rural Affairs
DfT	Department for Transport
dB	Decibel
DML	Deemed Marine Licence
dDML	draft Deemed Marine Licence
DEL	Dudgeon Extension Limited
DEP	Dudgeon Offshore Wind Farm Extension Project
DEP-N	Dudgeon Extension Project North
DEP-S	Dudgeon Extension Project South
DESNZ	Department for Energy Security and Net Zero
DIO	Defence Infrastructure Organisation
DLUHC	Department for Levelling Up, Housing and Communities
DMRB	Design Manual for Roads and Bridges
DOW	Dudgeon Offshore Wind Farm
EA	Environment Agency
East Anglia ONE	East Anglia ONE North Offshore Wind Farm Order 2022
EC	European Commission
ECC	Export Cable Corridor
ECHR	European Convention on Human Rights
EEA	European Economic Area
EEAST	East of England Ambulance Service NHS Trust
EIA	Environment Impact Assessment

EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
EIEOMP	Eastern Inshore and Eastern Offshore Marine Plans
EIFCA	Eastern Inshore Fisheries and Conservation Authority
EM	Explanatory Memorandum
EMF	Electro-Magnetic Fields
EMP	Ecological Management Plan
EPA	Environmental Protection Act
EPP	Evidence Plan Process
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EPS	European Protected Species
EPUK2017	Environmental Protection UK 2017
ES	Environmental Statement
ESC	East Suffolk Council
ETG	Expert Topic Group
EU	European Union
EUPHA	European Public Health Association
ExA	Examining Authority
FEP	Food Enterprise Park
FFC	Flamborough and Filey Coast
FLCP	Fisheries Liason and Co-Existence Plan
FLOWW	Fishing Liaison with Offshore Wind and Wet Renewables Group
FOCI	Features of Conservation Interest
FRA	Flood Risk Assessment
FSA	Formal Safety Assessments
ft	Feet/Foot
WQ1	First Written Questions
GEART	Guidelines for the Environmental Assessment of Road Traffic
GHG	Greenhouse Gas

GIS	Geographic Information System
GW	Greater Wash
HA1980	Highways Act 1980
ha	Hectare
HAU	Highway Authorities
Habitats Regulations	Conservation of Habitats and Species Regulations 2017
HDD	Horizontal Directional Drilling
HE	Historic England
HGV	Heavy Goods Vehicle
HM	His Majesty's
Hornsea 3	Orsted Hornsea Project Three Offshore Wind Farm Order 2020
Hornsea 4	Orsted Hornsea Project Four Offshore Wind Farm Order 2023
HoT	Heads of Terms
HPA2016	Housing and Planning Act 2016
HPAI	Highly Pathogenic Avian Influenza
hr	Hour
HRA	Habitats Regulation Assessment
HRA1998	Human Rights Act 1998
HS2	High Speed 2
HSC	Historic Seascape Character
HVAC	High Voltage Alternating Current
HVDC	High Voltage Directional Current
IAIA	International Association of Impact Assessment
IAPI	Initial Assessment of Principal Issues
IAQM	Institute of Air Quality Management
ICES	International Council for the Exploration of the Seas
ICNIRP	International Commission on Non-Ionizing Radiation Protection
IDB	Integrated Drainage Board
IEMA	Institute of Environmental Management and Assessment

IFP	Instrument Flight Procedures
IMC	Instrumental Meteorological Conditions
IMO	International Maritime Organisation
INNS	Invasive Non-Native Species
IOG	Independent Oil and Gas
IP	Interested Party
IPCoD	Interim Population Consequences of Disturbance
IPH	Institute of Public Health
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
km	Kilometre
kV	Kilovolts
kJ	Kilojoules
LA	Local Authority
LEB	Looming Eye Buoys
LHA	Local Highways Authority
LiDAR	Laser imaging, Detection and Ranging
LIG	Land Interest Group
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LMP	Landscape Management Plan
LNR	Local Nature Reserve
LOA	Length Overall
LOAEL	Lowest Observed Adverse Effect Level
LoD	Limits of Deviation
LoNI	Letter of No Impediment
LRN	Local Road Network
LSE	Likely Significant Effects
LV	Light Vehicles

LVIA	Landscape and Visual Impacts Assessment
m	Metres
MCA	Maritime and Coastguard Agency
MCAA2009	Marine and Coastal Access Act 2009
MCZ	Marine Conservation Zone
MEEB	Measures of Equivalent Environmental Benefit
MGN	Marine Guidance Notes
MHWS	Mean High Water Springs
MIMP	MEEB Implementation and Monitoring Plan
MMMP	Marine Mammals Mitigation Protocol
MMO	Marine Management Organisation
MoD	Ministry of Defence
ModApp	Modification Application
MPA	Marine Protected Areas
MPS	Marine Policy Statement
MRF	Marine Recovery Fund
MSA	Minimum Safety Altitude
MSGA	Mineral Safeguarding Area
MU	Management Unit
MW	Mega Watts
NATS	National Air Traffic Services
NCC	Norfolk County Council
NCP	Norfolk Coast Partnership
NE	Natural England
NERC2006	Natural Environment and Rural Communities Act 2006
NFU	National Farmers Union
NGESO	National Grid Electricity System Operator Limited
NGET	National Grid Electricity Transmission Plc
NGT	National Gas Transmission

NH	National Highways
NIC	National Infrastructure Commission
nm	Nautical Miles
NMP	Navigational Management Plan
NNC	North Norfolk Coast
NNDC	North Norfolk District Council
NNG	Night Noise Guidelines
NOAEL	No Observed Effect Level
Norfolk Boreas	Norfolk Boreas Offshore Wind Farm Order 2021
Norfolk Vanguard	Norfolk Vanguard Offshore Wind Farm Order 2022
Norwich Main Substation	Norwich Main National Grid Substation
No _x	Nitrogen Oxide
NO ₂	Nitrogen Dioxide
NPPF	National Planning Policy Framework
NPI	Non-Production Installation
NPMOTN	Norfolk Parishes Movement for an Offshore Transmission Network
NPS	National Policy Statement
NPS EN1	Overarching National Policy Statement for Energy (EN-1)
NPS EN3	National Policy Statement for Renewable Energy Infrastructure (EN-3)
NPS EN5	National Policy Statement for Electricity Networks Infrastructure (EN-5)
NPSE	Noise Policy Statement for England
NPSP	National Policy Statement for Ports
NRA	Navigation Risk Assessment
NRMM	Non-Road Mobile Machinery
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Network
NSR	Noise Sensitive Receptors

NT	National Trust
NWL	Norwich Western Link
NWT	Norfolk Wildlife Trust
NUI	Normally Unattended Installation
O&G	Oil and Gas
O&M	Operation and Maintenance
OCoCP	Outline Code of Construction Practice
OCTMP	Outline Construction Traffic Management Plan
OEI	One Engine In-operable
OEMP	Outline Ecology Management Plan
OFH	Open Floor Hearing
Offshore IPMP	Offshore In-Principle Monitoring Plan
OLMP	Outline Landscape Management Plan
OnSS	Onshore Substation
OOMP	Outline Offshore Operations and Maintenance Plan
OPEMP	Outline Project Environmental Management Plan
OREIs	Offshore Renewable Energy Installations
OSEP	Outline Skills and Employment Plan
OSP	Offshore Substation Platform
OTE	Outer Thames Estuary
OTNR	Offshore Transmission Network Review
OWF	Offshore Wind Farm
PA2008	Planning Act 2008
PC	Parish Council
PEIR	Preliminary Environmental Information Report
PEMP	Project Environmental Management Plan
PFG	Pink-footed Geese
PHE	Public Health England
PM	Preliminary Meeting

PM10, PM 2.5	Particulate Matter
PP	Protective Provisions
PPG	Planning Practice Guidance
PRoW	Public Right Of Way
PSED	Public Sector Equality Duty
pSPA	Potential Special Protection Area
PSR	Primary Surveillance Radar
PTS	Permanent Threshold Shift
PVA	Population Viability Analysis
QNB	Qualities of Natural Beauty
R	Requirement
RBMP	River Basin Management Plan
rDCO	Recommended Development Consent Order
rDML	Recommended Deemed Marine License
RIAA	Report to Inform Appropriate Assessment
RIES	Report on the Implications for European Sites
RR	Relevant Representation
RRH	Remote Radar Head
RSPB	Royal Society for the Protection of Birds
RTD	Red-throated Diver
rWFD	Revised Water Framework Directive
s	Section
SAC	Special Area of Conservation
SAR	Search and Rescue
SCA	Seascape Character Area
SCI	Sites of Community Importance
SEI	Supplementary Environmental Information
SEL	Scira Extension Limited
SEP	Sheringham Shoal Offshore Wind Farm Extension Project

SIP	Site Integrity Plan
SM	Scheduled Monument
SNC	South Norfolk Council
SNCB	Statutory Nature Conservation Body
SNS	Southern North Sea
SRN	Strategic Road Network
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SOLAS	International Convention for the Safety of Life at Sea
SoR	Statement of Reasons
SoS	Secretary of State for Energy Security and Net Zero
SoS LUHC	Secretary of State for Levelling Up, Housing and Communities
SoS Defence	Secretary of State for Defence
SoS EFRA	Secretary of State for Environment Food and Rural Affairs
SoS Transport	Secretary of State for Transport
SOW	Sheringham Offshore Wind Farm
SO ₂	Sulphur Dioxide
SP	Statutory Party
SPA	Special Protection Area
SPZ	Source Protection Zone
SRN	Strategic Road Network
SSC	Suspended Sediment Concentration
SSSI	Sites of Special Scientific Interest
SU	Statutory Undertaker
SuD _s	Sustainable drainage systems
SVIA	Seascape Visual Impact Assessment
SWMP	Site Waste Management Plan
tCE	The Crown Estate
TA	Transport Assessment

TCPA1990	The Town and Country Planning Act 1990 (as amended)
TMZ	Transponder Mandatory Zone
TP	Temporary Possession
TTS	Temporary Threshold Shift
TTSA	Traffic and Transport Study Area
UK	United Kingdom
UKHO	United Kingdom Hydrographic Office
UNEP	United Nations Environment Programme
USI	Unaccompanied Site Inspection
UU	Unilateral Undertaking
UXO	Unexploded Ordnance
VMC	Visual Meteorological Conditions
WACA1981	Wildlife and Countryside Act 1981
WCS	Worst-Case Scenario
WHO	World Health Organisation
WFD	Water Framework Directive
WQ	Written Questions
WR	Written Representation
WSI	Written Scheme of Investigation
ZTV	Zone of Theoretical Visibility
μT	Microtesla

APPENDIX D: THE RECOMMENDED DCO

2023 No.

INFRASTRUCTURE PLANNING

**The Sheringham Shoal and Dudgeon Extensions Offshore Wind
Farm Order 20[]**

Made - - - - *******
Laid before Parliament *******
Coming into force *******

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (the “2008 Act”) for an order granting development consent.

The application was examined by a Panel appointed by the Secretary of State, which has made a report and recommendation to the Secretary of State under section 74(2)(b) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Panel, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(c) and has had regard to the documents and matters referred to in section 104(2)(d) of the 2008 Act.

The Secretary of State is satisfied that special category land comprised within the Order land, when burdened with the new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before to the persons in whom it is vested; other persons, if any, entitled to rights of common or other rights; and the public; and that, accordingly, section 132(3)(e) of the 2008 Act applies.

The Secretary of State, having decided the application, has determined to make an order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

Accordingly, the Secretary of State, in exercise of the powers in sections 114, 115, 120(f), 140 and 149A of the 2008 Act, makes the following Order:

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 202[•] and comes into force on [•].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(g);

“the 1965 Act” means the Compulsory Purchase Act 1965(h);

“the 1980 Act” means the Highways Act 1980(i);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(a);

(a) 2008 c. 29. Section 37 was amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c.20) and by sections 22 to 27 of the Growth and Infrastructure Act 2013 (c.27).

(b) Section 74 was amended by sections 128(2) and 237 and by Schedule 13, paragraph 29 and Schedule 25, paragraph 1, to the Localism Act 2011.

(c) S.I. 2017/572.

(d) Section 104 was amended by section 58(5) of the Marine and Coastal Access Act 2009 (c.23) and by section 128(2) and Schedule 13, paragraphs 1 and 49(1) to (6) of the Localism Act 2011.

(e) Section 132 was amended by section 24(3) of the Growth and Infrastructure Act 2013 (c.27).

(f) Sections 114, 115 and 120 were amended by sections 128(2) and 140 and Schedule 13, paragraphs 1, 55(1), (2) and 60(1) and (3) of the Localism Act 2011. Relevant amendments were made to section 115 by section 160(1) to (6) of the Housing and Planning Act 2016 (c.22).

(g) 1961 c. 33.

(h) 1965 c. 56.

(i) 1980 c. 66.

“the 1989 Act” means the Electricity Act 1989**(b)**;

“the 1990 Act” means the Town and Country Planning Act 1990**(c)**;

“the 1991 Act” means the New Roads and Street Works Act 1991**(d)**;

“the 2003 Act” means the Communications Act 2003**(e)**;

“the 2004 Act” means the Energy Act 2004**(f)**;

“the 2008 Act” means the Planning Act 2008**(g)**;

“the 2009 Act” means the Marine and Coastal Access Act 2009**(h)**;

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016**(i)**;

“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017**(j)**;

“access to works plan” means the plan or plans certified as the access to works plan or plans by the Secretary of State under article 38 (*certification of plans and documents, etc.*);

“ancillary works” means the ancillary works described in Part 2 (ancillary works) of Schedule 1 (authorised project) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

“authorised development” means the development and associated development described in Part 1 (authorised development) of Schedule 1 and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“authorised project” means the authorised development and the ancillary works;

“book of reference” means the document certified as the book of reference by the Secretary of State under article 38;

“building” includes any structure or erection or any part of a building, structure or erection;

“buoy” means any floating device used for navigational purposes or measurement purposes including LiDAR buoys, wave buoys and guard buoys;

“cable” means any onshore or offshore cable and includes direct-lay cables and cables laid in cable ducts;

“cable circuit” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development comprising for HVAC transmission three conductors which may be bundled as one cable or take the form of three separate cables and the circuit may include one or more auxiliary cables (normally fibre optic cables) for the purpose of control, monitoring, protection or general communications;

“cable crossing” means a crossing of existing subsea cables or pipelines or other existing infrastructure by a cable or, where cables run together in parallel, a set of cables authorised by this Order together with physical protection measures including rock placement or other cable protection;

“cable ducts” means conduits for the installation of cables;

“cable protection” means measures to protect cables from physical damage and exposure due to loss of seabed sediment including, but not limited to, rock placement, mattresses with or without frond devices, protective aprons or coverings, bagged solutions filled with sand, rock, grout or other materials and protective shells;

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- (a) 1981 c. 66.
 - (b) 1989 c. 29.
 - (c) 1990 c. 8.
 - (d) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26), Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
 - (e) 2003 c.21
 - (f) 2004 c. 20. Section 105 was amended by section 69 of the Energy Act 2003 (c. 32).
 - (g) 2008 c. 29.
 - (h) 2009 c. 23.
 - (i) S.I. 2016/1154.
 - (j) S.I. 2017/1012.

“carriageway” has the same meaning as in section 329 of the 1980 Act;

“commence” means—

- (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for pre-construction surveys and monitoring approved under the deemed marine licences;
- (b) in respect of any other works, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project except for pre-commencement works;

and the words “commence” and “commencement” must be construed accordingly;

“commercial operation” means in relation to any part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

“construction compound” means a temporary construction area associated with the onshore works including (as required) but not limited to hardstanding, temporary fencing, lighting, ground preparation, site offices and workshop facilities, general storage, storage of plant, storage of spoil, cable drums, ducting and other construction materials; welfare facilities; car parking; waste management, lay-down areas; bunded generators; fuel storage or any other means of enclosure or areas required for construction purposes;

“Cromer Shoal Chalk Beds MCZ” means the Marine Conservation Zone designated by the Secretary of State under the Cromer Shoal Chalk Beds Marine Conservation Zone Designation Order 2016;

“crossing schedule” means the document certified as the crossing schedule by the Secretary of State under article 38;

“deemed marine licences” means the marine licences set out in Schedules 10 to 13;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL and any successor body to its functions;

“DEL” means Dudgeon Extension Limited, company number 12148301, whose registered office is at 1 Kingdom Street, London W2 6BD;

“design and access statement” means the document certified as the design and access statement by the Secretary of State under article 38;

“DEP North” means the array extension area located to the north of DOW;

“DEP South” means the array extension area located to the south of DOW;

“DOW” means the Dudgeon Offshore Wind Farm;

“DOW section 36 consent” means the consent granted by the Secretary of State for Energy and Climate Change to Dudgeon Offshore Wind Limited for the construction and operation of DOW dated 6 July 2012 (reference 12.04.09.04/227C) (as varied);

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 38;

“Dudgeon Extension Project” means the Dudgeon Extension Project offshore works and the Dudgeon Extension Project onshore works;

“Dudgeon Extension Project offshore works” means:—

- (a) in the event of scenario 1, 2 or 3, Work Nos. 1B to 7B and any other authorised development associated with those works; or
- (b) in the event of scenario 4, Work Nos. 1B, 2B, the integrated offshore works and any other authorised development associated with those works;

“Dudgeon Extension Project onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8B to 22B and any other authorised development associated with those works; or

- (b) in the event of scenario 3, Work Nos. 8B to 14B, the scenario 3 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;
- (c) in the event of scenario 4, Work Nos. 10B, 11B, 13B, 14B, the scenario 4 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;

“Environment Agency” means the Environment Agency and any successor in name or function;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 38;

“FEP phase 2 site” means the area of land on which phase 2 of the Food Enterprise Park is located, through which the Sheringham Shoal Extension Project onshore works and Dudgeon Extension Project onshore works pass, and which is shown on Figure 1 of the Supplemental Environmental Information to support the Applicant’s material change request;

“gravity base structure foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast, skirts or other additional fixings, and associated equipment including scour protection, J-tubes, corrosion protection systems, access platforms and equipment and separate topside connection structures or integrated transition pieces;

“habitats regulations derogation provision of evidence, annex 2A - outline sandwich tern compensation implementation and monitoring plan” means the document certified as the habitats regulations derogation provision of evidence, annex 2A - outline sandwich tern compensation implementation and monitoring plan by the Secretary of State under article 38;

“habitats regulations derogation provision of evidence, annex 3A - outline kittiwake compensation implementation and monitoring plan” means the document certified as the habitats regulations derogation provision of evidence, annex 3A - outline kittiwake compensation implementation and monitoring plan by the Secretary of State under article 38;

“HAT” means highest astronomical tide;

“HDD” or “horizontal direction drilling” refers to a trenchless technique for installing cables and cable ducts involving drilling in an arc between two points;

“highway” has the same meaning as in section 328 of the 1980 Act;

“highway authority” has the same meaning as in the 1980 Act;

“horizontal directional drilling compound” means a construction site associated with horizontal directional drilling including hard standing, lay down and storage areas for construction materials and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas comprising water and bentonite tanks, pumps and pipes, welfare facilities including offices and canteen and washroom facilities, wheel washing facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“HVAC” means high voltage alternating current;

“in-field cable” means a subsea cable linking two or more offshore structures;

“in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation” means the document certified as the in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation by the Secretary of State under article 38;

“integrated offshore substation platform” means a single offshore substation platform to be constructed and operated for the benefit of both SEL and DEL comprised within Work No. 3C;

“integrated offshore works” means Work Nos. 3C, 4C, 5C, 6C and 7C;

“integrated onshore substation” means a single onshore HVAC substation constructed and operated for the benefit of both SEL and DEL comprised within Work No. 15C;

“integrated works” means the integrated offshore works and the scenario 3 integrated onshore works or the scenario 4 integrated onshore works;

“interlink cable” means a subsea cable linking two offshore areas;

“intrusive” means an activity that requires or is facilitated by breaking the surface of the ground (but does not include the installation of fence or signage posts);

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as J-tubes, corrosion protection systems and access platforms;

“joint bay” means an excavation located at regular intervals along the cable route consisting of a concrete flat base slab constructed beneath the ground to facilitate the jointing together of the cables;

“land plans” means the plans certified as the land plans by the Secretary of State under article 38;

“LAT” means lowest astronomical tide;

“lead local flood authority” has the same meaning as in section 6(7) (other definitions) of the Flood and Water Management Act 2010(a);

“link box” means the underground metal box placed within a plastic or concrete pit where the metal sheaths between adjacent export cable sections are connected and earthed installed within a ground level manhole or inspection chamber to allow access to the link box for regular maintenance or fault-finding purposes;

“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Licence 1” means the marine licence in Schedule 10 (Marine Licence 1:– Sheringham Shoal Extension Project Offshore Generation Work No. 1A, 2A and 6A or 6C);

“Marine Licence 2” means the marine licence in Schedule 11 (Marine Licence 2: – Dudgeon Extension Project Offshore Generation Work No. 1B, 2B and 6B or 6C);

“Marine Licence 3” means the marine licence in Schedule 12 (Marine Licence 3: Sheringham Shoal Extension Project Offshore Transmission– Work Nos. 3A to 7A or 3C to 7C);

“Marine Licence 4” means the marine licence in Schedule 13 (Marine Licence 4: – Dudgeon Extension Project Offshore Transmission Work Nos. 3B to 7B or 3C to 7C);

“MCA” means the Maritime and Coastguard Agency;

“MHWS” or “mean high water springs” means the highest level that spring tides reach on average over a period of time;

“MLWS” or “mean low water springs” means the lowest level that spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“monopile foundation” means a steel pile driven or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“National Grid substation connection works” means:—

(a) in the event of scenario 1 or scenario 2, Work Nos. 16A, 16B, 17A and 17B; or

(b) in the event of scenario 3 or scenario 4, Work Nos. 16C and 17C;

“National Highways” means National Highways and any successor in name or function;

“Natural England” means Natural England and any successor in name or function;

(a) 2010 c. 29.

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 38;

“offshore order limits and grid coordinates plan” means the plans certified as the offshore order limits and grid coordinates plan by the Secretary of State under article 38;

“offshore substation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad, containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marking and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

“offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A, 1B to 7B and any other authorised development associated with those works;
- (b) in the event of scenario 4, Work Nos. 1A, 1B, 2A, 2B, the integrated offshore works, and any other authorised development associated with those works;

“onshore cable corridor” means the areas shown on the works plans (onshore) for Work Nos. 12A, 12B and 12C;

“onshore construction works” means—

- (a) temporary haul roads;
- (b) vehicular accesses; and
- (c) construction compound(s), or if horizontal directional drilling is to be used, horizontal directional drilling compound(s);

“onshore DEP substation” means an onshore HVAC substation constructed and operated for the benefit of DEL comprised within Work No. 15B;

“onshore HVAC substation” means a compound comprising an onshore HVAC substation containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation, with external landscaping and means of access;

“onshore SEP substation” means an onshore HVAC substation constructed and operated for the benefit of SEL comprised within Work No. 15A;

“onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A, Work Nos. 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8A to 14A, 8B to 14B, the scenario 3 integrated onshore works, 18A to 22A, 18B to 22B and any other authorised development associated with those works; or
- (c) in the event of scenario 4, Work Nos. 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A and 18B to 22B, the scenario 4 integrated onshore works and any other authorised development associated with those works;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the works plans within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in Part 1 of Schedule 1 of this Order;

“outline Cromer Shoal Chalk Beds Marine Conservation Zone cable specification, installation and monitoring plan” means the document certified as the cable outline Cromer Shoal Chalk Beds Marine Conservation Zone specification, installation and monitoring plan by the Secretary of State under article 38;

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State under article 38;

“outline construction traffic management plan” means the document certified as the outline traffic management plan by the Secretary of State under article 38;

“outline ecological management plan” means the document certified as the outline ecological management plan by the Secretary of State under article 38;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 38;

“outline landscape management plan” means the document certified as the outline landscape management plan by the Secretary of State under article 38;

“outline marine traffic monitoring plan” means the document certified as the outline marine traffic monitoring plan by the Secretary of State under article 38;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 38;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State under article 38;

“outline operational drainage strategy (onshore substation)” means the document certified as the outline operational drainage strategy (onshore substation) by the Secretary of State under article 38;

“outline public rights of way strategy” means the document certified as the outline public rights of way strategy by the Secretary of State under article 38;

“outline skills and employment plan” means the document certified as the outline skills and employment plan by the Secretary of State under article 38;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State under article 38;

“outline written scheme of investigation (onshore)” means the document certified as the outline written scheme of investigation (onshore) by the Secretary of State under article 38;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“pre-commencement works” means site clearance, demolition, early planting of landscaping works, archaeological investigations, environmental surveys, ecological mitigation, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure, the erection of welfare facilities, creation of site accesses and the temporary display of site notices or advertisements;

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act;

“public rights of way plan” means the plans certified as the public rights of way plan by the Secretary of State under article 38;

“relevant planning authority” means the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

(a) 1981 c. 67.

“requirement” means a requirement set out in Schedule 2; and a reference to a numbered requirement is a reference to the requirement set out in the paragraph of the same number of that Schedule;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, flow energy dissipation devices and rock and gravel placement;

“SEL” means Scira Extension Limited, company number 12239260, whose registered office is at 1 Kingdom Street, London W2 6BD;

“scenario 1” means each generating station will be constructed in any one of the following ways:—

- (a) the construction of the Sheringham Shoal Extension Project only where the Dudgeon Extension Project does not proceed to construction;
- (b) the construction of the Dudgeon Extension Project only where the Sheringham Shoal Extension Project does not proceed to construction;
- (c) sequential construction where the Sheringham Shoal Extension Project is constructed first then the Dudgeon Extension Project is constructed second or vice versa; or
- (d) concurrent construction of the Sheringham Shoal Extension Project and the Dudgeon Extension Project;

“scenario 2” means a sequential construction scenario in which either the Sheringham Shoal Extension Project is constructed first and SEL installs the ducts for the Dudgeon Extension Project or the Dudgeon Extension Project is constructed first and DEL installs the ducts for the Sheringham Shoal Extension Project;

“scenario 3” means:—

- (a) sequential or concurrent construction of Work Nos. 1A to 14A, 18A to 22A, 1B to 14B, 18B to 22B; and
- (b) construction of the scenario 3 integrated onshore works;

“scenario 3 integrated onshore works” means Work Nos. 15C to 17C;

“scenario 4” means:—

- (a) sequential or concurrent construction of Work Nos. 1A, 1B, 2A, 2B, 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A, 18B to 22B; and
- (b) construction of the integrated offshore works and the scenario 4 integrated onshore works;

“scenario 4 integrated onshore works” means 8C, 9C, 12C, 15C, 16C and 17C;

“Sheringham Shoal Extension Project” means the Sheringham Shoal Extension Project onshore works and the Sheringham Shoal Extension Project offshore works;

“Sheringham Shoal Extension Project offshore works” means:—

- (a) in the event of scenario 1, 2 or 3, Work Nos. 1A to 7A and any authorised development associated with those works; or
- (b) in the event of Scenario 4, Work Nos. 1A, 2A, the integrated offshore works and any other authorised development associated with those works;

“Sheringham Shoal Extension Project onshore works” means:

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8A to 14A, the scenario 3 integrated onshore works, 18A to 22A and any other authorised development associated with those works; or

(c) in the event of scenario 4, Work Nos. 10A, 11A, 13A, 14A, the scenario 4 integrated onshore works, 18A to 22A and any other authorised development associated with any of those works;

“special category land plan” means the plan certified as the special category land plan by the Secretary of State under article 38;

“statutory historic body” means Historic England or its successor in function;

“statutory nature conservation body” means an organisation charged by the government with advising on nature conservation matters;

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in section 49 of the 1991 Act;

“streets (to be temporarily stopped up) plan” means the plans certified as the streets (to be temporarily stopped up) plan by the Secretary of State under article 38;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket or monopile foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“Supplemental Environmental Information to support the Applicant’s material change request” means the document certified as the Supplemental Environmental Information to support the Applicant’s material change request by the Secretary of State under article 38;

“tree preservation order and hedgerow plan” means the plan certified as the tree preservation order and hedgerow plan by the Secretary of State under article 38;

“transition joint bay” means an underground concrete bay where offshore export cables are jointed to onshore export cables;

“transition piece” means a metal structure attached to the top of a foundation where the base of a wind turbine generator is connected and may include additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, electrical transmission equipment and associated equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means, subject to article 5 (*benefit of Order*),—

- (a) for the purposes of constructing, maintaining and operating the Sheringham Shoal Extension Project and any related ancillary works, SEL;
- (b) for the purposes of constructing, maintaining and operating the Dudgeon Extension Project and any related ancillary works, DEL;
- (c) for the purposes of constructing, maintaining and operating the integrated works, SEL and DEL; and any restrictions, liabilities and obligations arising in relation to any integrated works apply to the undertaker exercising the powers under this Order in relation to the integrated works; and
- (d) in any other case, SEL and DEL;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“wind turbine generator” means a structure comprising a tower, a rotor with three blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include

J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter transfer facilities and other associated equipment, fixed to a foundation or transition piece;

“works plans” means the works plans (offshore) and the works plans (onshore);

“works plans (offshore)” means the plans certified as the works plans (offshore) by the Secretary of State under article 38; and

“works plans (onshore)” means the plans certified as the works plans (onshore) by the Secretary of State under article 38.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions, and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised project are to be taken to be measured along that work.

(4) References in this Order to a numbered work are references to a work so numbered in Part 1 (authorised development) of Schedule 1 (authorised project).

(5) Unless otherwise stated, references in this Order to points identified by letters are references to the points so lettered on the works plans.

(6) References in this Order to coordinates are references to coordinates on the World Geodetic System 1984 datum.

(7) In this Order “includes” must be construed without limitation unless the contrary intention appears.

PART 2

Principal powers

Development consent granted by Order

3. Subject to the provisions of this Order including the requirements—

- (a) SEL is granted development consent for the Sheringham Shoal Extension Project and related ancillary works;
- (b) DEL is granted development consent for the Dudgeon Extension Project and related ancillary works; and
- (c) SEL and DEL are granted development consent for the integrated works;

to be carried out within the Order limits.

(2) Unless otherwise stated in Schedule 2, the requirements apply to scenario 1, scenario 2, scenario 3 and scenario 4.

Maintenance of the authorised project

4.—(1) The undertaker may at any time maintain the authorised project except to the extent that this Order or any agreement made under this Order provides otherwise.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 (marine licensing) of the 2009 Act for licensable activities not covered by the deemed marine licences.

Benefit of Order

5.—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraphs (4), (5) and (6) the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (3) below) and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of the Order (excluding the deemed marine licences referred to in paragraph (3) below) and such related statutory rights as may be so agreed.

except where paragraph (8) applies, in which case no consent of the Secretary of State is required.

(3) Subject to paragraph (6), the undertaker may with the written consent of the Secretary of State and where an agreement has been made in accordance with paragraph (2)(a), transfer to the transferee the whole of any deemed marine licences and such related statutory rights as may be agreed between the undertaker and the transferee, except where paragraph (8) applies, in which case no consent of the Secretary of State is required.

(4) Where an agreement has been made in accordance with paragraph (2) or (3) references in this Order to the undertaker, except in paragraphs (5), (7) and (13), shall include references to the transferee or lessee.

(5) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application.

(6) The Secretary of State must consult the MMO before giving consent to the transfer of the whole of any deemed marine licences under paragraph (3).

(7) Where the undertaker has transferred any benefit under paragraph (2) or (3), or for the duration of any period during which the undertaker has granted any benefit, under paragraph (2)—

- (a) the benefit transferred or granted (“the transferred benefit”) shall include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall not be enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer under paragraph (2) or (3) or grant under paragraph (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(8) The consent of the Secretary of State is required for the exercise of powers under paragraph (2) or (3) except where—

- (a) the transferee or lessee is the holder of a licence under section 6 of the 1989 Act;
- (b) the transferee or lessee is a company whose shares are entirely owned by the undertaker or is a subsidiary to the undertaker; or
- (c) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made;
 - (ii) any such claim has been made and has been compromised or withdrawn;
 - (iii) compensation has been paid in final settlement of any such claim;
 - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim;

- (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable; or
- (vi) the transferee or lessee is National Highways for the purposes of undertaking any works to install ducts under the strategic road network as set out in Work Nos. 12A, 12B or 12C.

(9) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority.

(10) A notice required under paragraphs (5) and (9) must—

- (a) state—
 - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
 - (ii) subject to paragraph (11), the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted;
 - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (7)(c), will apply to the person exercising the powers transferred or granted; and
 - (v) where paragraph (8) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land;
- (b) be accompanied by—
 - (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
 - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(11) The date specified under paragraph (10)(a)(ii) in respect of a notice served in respect of paragraph (9) must not be earlier than the expiry of fourteen days from the date of the receipt of the notice.

(12) The notice given under paragraph (9) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

(13) The provisions of articles 8 (*street works*), 10 (*temporary stopping up of streets*), 18 (*compulsory acquisition of land*), 20 (*compulsory acquisition of rights*), 26 (*temporary use of land for carrying out the authorised project*) and 27 (*temporary use of land for maintaining the authorised project*) shall have effect only for the benefit of the undertaker and a person who is a transferee or lessee who is also—

- (a) in respect of Work Nos. 8A to 22A, 8B to 22B, 8C to 9C, 12C and 15C to 17C, a person who holds a licence under the 1989 Act; or
- (b) in respect of functions under article 8 relating to streets, a street authority.

(14) Section 72(7) and (8) of the 2009 Act do not apply to a transfer of grant of the benefit of the provisions of any deemed marine licences to another person by the undertaker pursuant to an agreement under this article.

Disapplication and modification of legislative provisions

6.—(1) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) the 2016 Regulations, to the extent that they require a permit for anything that would have required consent made under section 109 of the Water Resources Act 1991(a)

(a) 1991 c. 59. Section 109 has been repealed.

immediately before the repeal of that section or for any activities defined under the Environmental Permitting (England and Wales) Regulations 2016 as flood risk activities;

- (b) Section 23 (prohibition of obstructions etc. in watercourses)(a) of the Land Drainage Act 1991;
- (c) the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991 (byelaw-making powers of the Appropriate Agency) that require consent or approval for the carrying out of the works;
- (d) the provisions of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of the Land Drainage Act 1991 that require consent or approval for the carrying out of the works; and
- (e) the provisions of the Neighbourhood Planning Act 2017(b) in so far as they relate to the temporary possession of land under this Order.

(2) For the purpose of carrying out development authorised by this Order only, regulation 6(1) (permitted work)(c) of the Hedgerows Regulations 1997 (permitted work) is deemed to be amended by inserting the following sub-paragraph after sub-paragraph (1)(j)—

“(k) for carrying out development which has been authorised by an order granting development consent pursuant to section 114 of the Planning Act 2008;”.

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances)(d) of the Environmental Protection Act 1990 in relation to a nuisance falling within paragraph (g) of section 79(1)(e) of that Act (statutory nuisances and inspections therefor) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(f); or
 - (ii) is a consequence of the construction or maintenance of the authorised project and cannot reasonably be avoided;
- (b) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and is attributable to the use of the authorised project being used in compliance with requirement 21 (control of noise during operational phase); or
 - (ii) is a consequence of the use of the authorised project and cannot reasonably be avoided.

(a) 1991 c. 59.

(b) 2017 c. 20.

(c) S.I. 1997/1160. Regulation 6 was amended by paragraph 35 of Schedule 1 to S.I. 2015/377.

(d) 1990 c. 43. Section 82 was amended by sections 101 and 102 of the Clean Neighbourhoods and Environment Act 2005 (c.16).

(e) Section 79 was amended by paragraph 89 of Schedule 22 to Environment Act 1995 c. 25.

(f) 1974 c. 40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 (c.43) and Schedule 24 to the Environment Act 1995.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.

PART 3

Streets

Street works

8.—(1) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) remove or use all earth and materials in on or under the street;
- (d) place and keep apparatus under the street;
- (e) maintain apparatus under the street or change its position; and
- (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Application of the 1991 Act

9.—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made, or code of practice issued or approved, under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under article 8 (*street works*); and
- (b) the temporary stopping up, alteration or diversion of a street by the undertaker under article 10 (*temporary stopping up of streets*);

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act(a) are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);
- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in sub-paragraphs (a) to (g).

(a) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c.18).

(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Temporary stopping up of streets

10.—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street; and
- (b) subject to paragraph (3), prevent persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in Schedule 5 (streets to be temporarily stopped up) to the extent specified by reference to the letters and numbers shown on the streets plan.

(5) The undertaker must not temporarily stop up, alter or divert—

- (a) any street referred to in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority, which may attach reasonable conditions to the consent.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(7) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5)(b) that street authority is deemed to have granted consent.

Temporary stopping up of public rights of way

11. The undertaker may in connection with the carrying out of the authorised project, temporarily stop up each of the public rights of way specified in column (2) of Schedule 4 (public rights of way to be temporarily stopped up) to the extent specified in column (3), by reference to the letters shown on the temporary stopping up of rights of way plan.

Access to works

12.—(1) The undertaker may, for the purposes of the authorised project—

- (a) form, lay out and maintain means of access, or improve or maintain existing means of access, in the locations specified in Schedule 6 (access to works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority in accordance with requirement 16 (highway accesses), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

(2) If the relevant planning authority fails to notify the undertaker of its decision within 28 days of receiving an application for approval under paragraph (1)(b) that relevant planning authority is deemed to have granted approval.

Agreements with street authorities

13.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) any temporary stopping up, alteration or diversion of a street authorised by this Order; or
 - (b) the carrying out in the street of any of the works referred to in article 8 (*street works*).
- (2) Such an agreement may, without limiting paragraph (1):—
- (a) provide for the street authority to carry out any function under this Order that relates to the street in question;
 - (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

Supplemental powers

Discharge of water

14.—(1) Subject to paragraphs (3) and (4) below the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) must be determined as if it were a dispute under section 106 (right to communicate with public sewers)(a) of the Water Industry Act 1991 .

(3) The undertaker must not discharge any water into a watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to paragraph (1) except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(6) The undertaker must not, in carrying out or maintaining works pursuant to this article damage or interfere with the bed or banks of any watercourse forming part of a main river.

(7) Nothing in this article overrides the requirement for an environmental permit under Regulation 12(1)(b) of the 2016 Regulations insofar as the discharge activity comes within the definition contained within the 2016 Regulations.

(8) In this article—

- (a) “ordinary watercourse” has the meaning given in the Land Drainage Act 1991;
- (b) “public sewer or drain” means a sewer or drain that belongs to the Environment Agency, a relevant drainage authority, a local authority or a sewerage undertaker; and
- (c) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

(a) 1991 c. 56. Section 106 was amended by section 35(8) and 43(2) of and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c. 43) and sections 36(2) and 99 of the Water Act 2003 (c. 37).

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

Protective work to buildings

15.—(1) Subject to the provisions of this article, the undertaker may at its own expense carry out such protective works to any building within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised project; or
- (b) after the completion of that part of the authorised project in the vicinity of the building at any time up to the end of the period of five years beginning with the day on which that part of the authorised project is brought into commercial operation.

(3) For the purpose of determining how the powers under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land that is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land;

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a), (c) or (d), the notice must specify the protective works proposed to be carried out.

(6) Where a notice is served under sub-paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 43 (*arbitration*).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which powers under this article have been exercised for any loss or damage arising to them by reason of the exercise of the powers.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of five years beginning with the day on which the part of the authorised project carried out in the vicinity of the building is brought into commercial operation it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised project;

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker of any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act(a) applies to the entry onto land under this article to the same extent as it applies in respect of the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act .

(12) In this article, “protective works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised project; and
- (b) any works, the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised project.

Authority to survey and investigate land

16.—(1) The undertaker may for the purposes of this Order enter on any land within the Order limits or land which may be affected by the authorised project and—

- (a) survey or investigate the land;
- (b) without limiting sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limiting sub-paragraph (a), carry out ecological or archaeological investigations on the land, including the digging of trenches; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and the making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land. If the undertaker proposes to do any of the following, the notice must include details of what is proposed:—

- (a) searching, boring or excavating;
- (b) leaving apparatus on the land; and
- (c) taking samples.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes may be made under this article—

- (a) in land forming a railway without the consent of Network Rail(b);
- (b) in land held by or in right of the Crown without the consent of the Crown;
- (c) in land located within the highway boundary without the consent of the highway authority; or
- (d) in a private street without the consent of the street authority;

but such consent must not be unreasonably withheld or delayed.

(a) Section 13 was amended by section 139 of, and paragraph 28(2) of Schedule 13 and paragraph 1 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(b) As defined in Part 3 of Schedule 14 (For the Protection of Network Rail Infrastructure Limited).

(5) After completion of the activities being undertaken pursuant to this article, any apparatus must be removed as soon as practicable, and the land must be restored to its original condition.

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act .

(7) This article applies in relation to the onshore works only.

(8) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under paragraph (4)(c) in the case of a highway authority; or

(b) under paragraph (4)(d) in the case of a street authority;

that authority is deemed to have granted consent.

(9) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Removal of human remains

17.—(1) In this article, “specified land” means the land within the Order limits.

(2) Before the undertaker carries out any development or works that disturb or may disturb any human remains in the specified land, it must remove the human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land, the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

(a) publishing a notice in two successive weeks in a newspaper circulating in the area of the authorised project; and

(b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3), the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3), any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, the person must cause such remains to be—

(a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or

(b) removed to, and cremated in, any crematorium;

and the person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph is given to the undertaker in respect of any remains in the specified land;
- (b) notice under paragraph (5) is given and no application is made under paragraph (7) within 56 days after the giving of the notice, but the person who gave the notice fails to remove the remains within a further period of 56 days;
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which a notice under paragraph (5) relates cannot be identified;

subject to paragraph (10), the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as the person claims to be and that the remains in question can be identified, but the person does not remove the remains, the undertaker must comply with any reasonable request that the person makes in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent to the Registrar-General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and of the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority.

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857(a) does not apply to a removal carried out in accordance with this article.

PART 5

Powers of acquisition

Compulsory acquisition of land

18.—(1) SEL, with the consent of DEL such consent not to be unreasonably withheld, may acquire compulsorily so much of the Order land as is required for the Sheringham Shoal Extension Project or the integrated works, or to facilitate, or is incidental to, the construction and maintenance of the Sheringham Shoal Extension Project or the integrated works.

(2) DEL, with the consent of SEL such consent not to be unreasonably withheld, may acquire compulsorily so much of the Order land as is required for the Dudgeon Extension Project or the integrated works, or to facilitate, or is incidental to, the construction and maintenance of the Dudgeon Extension Project or the integrated works.

(a) 1857 c. 81. Section 25 was substituted by section 2 of the Church of England (Miscellaneous Provisions) Measure 2014 (2014 No. 1) and amended by paragraph 1 of Schedule 3 to the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (2018 No. 3).

(3) If the undertaker whose consent is required under paragraph (1) or (2) fails to notify the undertaker requesting consent of its decision within 28 days of receiving an application for consent, the first mentioned undertaker is deemed to have given consent.

(4) This article is subject to—

- (a) article 20 (*compulsory acquisition of rights*);
- (b) article 23 (*acquisition of subsoil or airspace only*);
- (c) article 26 (*temporary use of land for carrying out the authorised project*); and
- (d) article 37 (*crown rights*).

Time limit for exercise of authority to acquire land compulsorily

19.—(1) After the end of the period of 7 years beginning on the day on which this Order is made—

- (a) no notice to treat may be served under Part 1 of the 1965 Act; and
- (b) no declaration may be executed under section 4(a) (execution of declaration) of the 1981 Act as applied by article 22 (*application of the 1981 Act*).

(2) The authority conferred by article 26 (*temporary use of land for carrying out the authorised project*) ceases at the end of the period referred to in paragraph (1), but nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period if the land was entered, and possession was taken, before the end of that period.

Compulsory acquisition of rights

20.—(1) Subject to paragraph (3), SEL may, with the consent of DEL such consent not to be unreasonably withheld, acquire compulsorily such rights or impose restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 18 (*compulsory acquisition of land*), by creating them as well as by acquiring rights already in existence.

(2) Subject to paragraph (3), DEL may, with the consent of SEL such consent not to be unreasonably withheld, acquire compulsorily such rights or impose restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 18, by creating them as well as by acquiring rights already in existence.

(3) Subject to the provisions of this paragraph, article 21 (*private rights over land*), [article 26 \(*temporary use of land for carrying out the authorised project*\)](#) and article 28 (*statutory undertakers*), in the case of the Order land specified in column (1) of Schedule 7 (land in which only new rights, etc. may be acquired), the powers of compulsory acquisition conferred [under paragraph \(1\) and paragraph \(2\) by this Order](#) are limited to the acquisition by the undertaker referred to in the corresponding entry in column (2) of that Schedule of such new rights and the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule and as described in the book of reference.

(4) Subject to section 8 (other provisions as to divided land) of and Schedule 2A (counter-notice requiring purchase of land not in notice to treat) (as substituted by paragraph 5(8) of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights) to the 1965 Act, where the undertaker acquires a right over the Order land or imposes a restrictive covenant under this article, the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 8 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(6) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) is required for the purposes of diverting, replacing or protecting apparatus of a

(a) Amended by sections 184 and 185 of and paragraph 2 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(7) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

Private rights over land

21.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under article 18 (*compulsory acquisition of land*) are extinguished—

- (a) from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act ;

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 20 (*compulsory acquisition of rights*) are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant—

- (a) from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act;

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 28 (*statutory undertakers*) applies.

(6) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of the land;
 - (iii) the undertaker's entry onto the land; or
 - (iv) the undertaker's taking temporary possession of the land;that any or all of those paragraphs do not apply to any right specified in the notice; or
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in paragraph (6)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person;

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) References in this article to private rights over land include any trust, incident, easement, liberty, privilege, right or advantage to which the land is subject.

Application of the 1981 Act

22.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of act), for subsection 2, substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.

(4) In section 5(2) (earliest date for execution of declaration) omit the words from “, and this subsection” to the end.

(5) Section 5A (time limit for general vesting declaration) is omitted.

(6) In section 5B (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent) the seven year period mentioned in article 19 (*time limit for exercise of authority to acquire land compulsorily*) of the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 202[X]”.

(7) In section 6 (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(8) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” are omitted.

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

“(2) But see article 23 (acquisition of subsoil or airspace only) of the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 202[X], which excludes the acquisition of subsoil or airspace only from this Schedule.”.

(10) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 24 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

23.—(1) SEL may, with the consent of DEL such consent not to be unreasonably withheld, acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 18 (*compulsory acquisition of land*) or article 20 (*compulsory acquisition of rights*) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) DEL may, with the consent of SEL such consent not to be unreasonably withheld, acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (2) of article 18 (*compulsory acquisition of land*) or article 20 (*compulsory acquisition of rights*) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(3) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1) or (2), the undertaker is not required to acquire an interest in any other part of the land.

(4) The following do not apply in connection with the exercise of the power under paragraph (1) or (2) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) Section 153(4A) (reference of objection to Upper Tribunal: general) of the 1990 Act.

(5) Paragraphs (3) and (4) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

Modification of Part 1 of the 1965 Act

24.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the seven year period mentioned in article 19 (*time limit for exercise of authority to acquire land compulsorily*) of the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 202[X]”.

(3) In section 11A (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 19 (*time limit for exercise of authority to acquire land compulsorily*) of the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 202[X]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 23(4) (*acquisition of subsoil or airspace only*) of the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 202[X], which excludes the acquisition of subsoil or airspace only from this Schedule”; and

(b) at the end insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 15 (protective work to buildings), article 26 (temporary use of land for carrying out the authorised project) or article 27 (temporary use of land for maintaining the authorised project) of the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 202[X].”.

Rights under or over streets

25.—(1) The undertaker may enter on and appropriate so much of the subsoil of or airspace over any street within the Order limits as may be required for the purposes of the authorised project and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised project.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street that forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised project

26. —(1) The undertaker may, in connection with the carrying out of the authorised project—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 9 (land of which temporary possession only may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), haul roads, security fencing, bridges, structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised project;
- (e) construct any works, or use the land, as specified in relation to that land in column (2) of Schedule 9, or any mitigation works;
- (f) construct such works on that land as are mentioned in Part 1 (authorised development) of Schedule 1 (authorised project); and
- (g) carry out mitigation works required pursuant to the requirements in Schedule 2.

(2) Not less than 28 days before entering on and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule 9; or
- (b) in the case of land specified in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of completion of the part of the authorised project for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace any building, structure, drain or electric line removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to street works); or
- (d) restore the land on which any works have been carried out under paragraph (1)(g) in so far as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 2.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order new rights over or impose restrictive covenants over the land referred to in paragraph (1)(a)(i).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Temporary use of land for maintaining the authorised project

27.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised project for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article “the maintenance period” means—

- (a) in relation to the maintenance of any tree, hedge or shrub planted as part of an approved landscape management plan the relevant period referred to in requirement 12(2); and
- (b) in relation to any other part of the authorised project, means the period of five years beginning with the date on which that part of the authorised project is brought into commercial operation.

Statutory undertakers

28.—(1) Subject to the provisions of article 41 (*protective provisions*), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order limits; and
- (b) extinguish the rights of, and remove or reposition apparatus belonging to, statutory undertakers within the Order limits.

(2) In this article “statutory undertaker” means—

- (a) a person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act ; and
- (b) a public communications provider.

Recovery of costs of new connections

29.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 28 (*statutory undertakers*), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer, but where such a sewer is removed under article 28, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer that communicated with that sewer;

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article “public utility undertaker” has the same meaning as in section 329 (further provision as to interpretation) of the 1980 Act.

PART 6

Operations

Operation of generating station

30.—(1) SEL is authorised to operate the generating station comprised in the Sheringham Shoal Extension Project.

(2) DEL is authorised to operate the generating station comprised in the Dudgeon Extension Project.

(3) Paragraphs (1) and (2) do not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

Deemed marine licences under the 2009 Act

31.—(1) The following marine licences are deemed to have been granted to SEL under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part 1 of each licence and subject to the conditions specified in Part 2 of each licence—

- (a) Marine Licence 1 (set out in Schedule 10); and
- (b) Marine Licence 3 (set out in Schedule 12).

(2) The following marine licences are deemed to have been granted to DEL under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part 1 of each licence and subject to the conditions specified in Part 2 of each licence—

- (a) Marine Licence 2 (set out in Schedule 11); and
- (b) Marine Licence 4 (set out in Schedule 13).

PART 7

Miscellaneous and general

Application of landlord and tenant law

32.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it;

so far as the agreement relates to the terms on which any land that is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land that is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

33. Development consent granted by this Order is treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

Felling or lopping of trees and removal of hedgerows

34.—(1) Subject to article 35 (*trees subject to tree preservation orders*) the undertaker may fell or lop, or cut back the roots of, any tree or shrub within or overhanging land within the Order limits or near any part of the authorised project if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) The undertaker may, for the purposes of the authorised project—

- (a) subject to paragraph (2) above, remove any hedgerows as are within the Order Limits and specified in Schedule 16, Part 1 (removal of hedgerows) that may be required to be removed for the purposes of carrying out the authorised project; and
- (b) remove the important hedgerows as are within the Order Limits and specified in Schedule 16, Part 2 (removal of potentially important hedgerows) and Schedule 16, Part 3 (removal of important hedgerows).

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997.

Trees subject to tree preservation orders

35.—(1) The undertaker may fell or lop, or cut back the roots of, any tree within or overhanging the Order limits that is subject to a tree preservation order if it reasonably believes it to be necessary to do so to prevent the tree from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1)(a) (replacement of trees) of the 1990 Act does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(5) In this article, “tree preservation order” has the same meaning as in section 198 (power to make tree preservation orders) of the 1990 Act.

(a) Section 206(1) was amended by paragraph 11 of Schedule 8 to the Planning Act 2008 (c. 29).

Saving provisions for Trinity House

36. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Crown rights

37.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 (“Crown land” and “the appropriate Crown authority”) of the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Certification of plans and documents, etc.

38.—(1) The undertaker must, as soon as practicable after this Order is made, submit to the Secretary of State all of the documents listed in Schedule 18 for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Abatement of works abandoned or decayed

39.—(1) Where the Sheringham Shoal Extension Project offshore works or any part of them are abandoned or allowed to fall into decay the Secretary of State may, following consultation with SEL, by notice in writing require SEL at its own expense either to repair, make safe and restore one or any of those works, or any relevant part of them, or to remove them and, without prejudice to any notice served under section 105(2) of the 2004 Act, restore the site to a safe and proper condition, to such an extent and within such limits as may be specified in the notice.

(2) Where the Dudgeon Extension Project offshore works or any part of them are abandoned or allowed to fall into decay the Secretary of State may, following consultation with DEL, by notice in writing require DEL at its own expense either to repair, make safe and restore one or any of those works, or any relevant part of them, or to remove them and, without prejudice to any notice served under section 105(2) of the 2004 Act, restore the site to a safe and proper condition, to such an extent and within such limits as may be specified in the notice.

(3) For the purposes of this article:

“Dudgeon Extension Project offshore works” means:—

- (a) in the event of scenario 1, 2 or 3, Work Nos. 1B to 7B and any other authorised development associated with those works; or

- (b) in the event of scenario 4, Work Nos. 1B, 2B, any part of the integrated offshore works operated by or for the benefit of DEL and any other authorised development associated with those works; and

“Sheringham Shoal Extension Project offshore works” means:—

- (a) in the event of scenario 1, 2 or 3, Work Nos. 1A to 7A and any authorised development associated with those works; or
- (b) in the event of Scenario 4, Work Nos. 1A, 2A, any part of the integrated offshore works operated by or for the benefit of SEL and any other authorised development associated with those works.

Funding

40.—(1) Except where the provisions of paragraph (8) apply, SEL must not exercise the powers conferred by the provisions referred to in paragraph (3) in relation to any land unless a guarantee or alternative form of security in respect of the liabilities of SEL to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land is in place.

(2) Except where the provisions of paragraph (9) apply, DEL must not exercise the powers conferred by the provisions referred to in paragraph (3) in relation to any land unless a guarantee or alternative form of security in respect of the liabilities of DEL to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land is in place.

(3) The provisions are—

- (a) article 18 (*compulsory acquisition of land*);
- (b) article 20 (*compulsory acquisition of rights*);
- (c) article 21 (*private rights over land*);
- (d) article 23 (*acquisition of subsoil or airspace only*);
- (e) article 25 (*rights under or over streets*);
- (f) article 26 (*temporary use of land for carrying out the authorised project*);
- (g) article 27 (*temporary use of land for maintaining the authorised project*); and
- (h) article 28 (*statutory undertakers*).

(4) The form of guarantee or security referred to in paragraphs (1) and (2), and the amount guaranteed or secured, must be approved by the Secretary of State, but such approval must not be unreasonably withheld.

(5) The undertaker must provide the Secretary of State with such information as the Secretary of State may reasonably require relating to the interests in the land affected by the exercise of the powers referred to in paragraph (3) for the Secretary of State to be able to determine the adequacy of the proposed guarantee or security including—

- (a) the interests affected; and
- (b) the undertaker’s assessment, and the basis of the assessment, of the level of compensation.

(6) A guarantee or other security given in accordance with this article that guarantees or secures the undertaker’s payment of compensation in relation to the exercise of the powers referred to in paragraph (3) is to be treated as enforceable against the guarantor or provider of security by any person to whom such compensation is properly payable and must be in such a form as to be capable of enforcement by such a person.

(7) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

(8) Nothing in this article requires a guarantee or alternative form of security to be put in place by SEL where—

- (a) SEL provides the Secretary of State with financial information sufficient to demonstrate that it has appropriate funding in place without a guarantee or alternative form of

security to meet any liability to pay compensation under this Order in respect of the exercise of the relevant powers in paragraph (1); and

- (b) The Secretary of State provides written confirmation that no such guarantee is required, such written confirmation not to be unreasonably withheld.

(9) Nothing in this article requires a guarantee or alternative form of security to be put in place by DEL where —

- (a) DEL provides the Secretary of State with financial information sufficient to demonstrate that it has appropriate funding in place without a guarantee or alternative form of security to meet any liability to pay compensation under this Order in respect of the exercise of the relevant powers in paragraph (2); and
- (b) The Secretary of State provides written confirmation that no such guarantee is required, such written confirmation not to be unreasonably withheld.

Protective provisions

41. Schedule 14 (protective provisions) has effect.

Service of notices

42.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

- (a) in the case of the secretary or clerk of that body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at that time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and
- (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(a) 1978 c. 30. Section 7 was amended by paragraph 19 of Schedule 10 to the Road Traffic Regulation Act 1984 (c. 27).

- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Arbitration

43.—(1) Subject to article 36 (*Saving provisions for Trinity House*), any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by arbitration in accordance with the rules in Schedule 15 (arbitration rules) by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.

Procedure in relation to approvals, etc. under requirements

44.—(1) Where an application is made to the relevant planning authority for any consent, agreement or approval required by a requirement, the following provisions apply in respect of that application as they would if the consent, agreement or approval so required were required by a condition imposed on a grant of planning permission—

- (a) sections 78 (right to appeal against planning decisions and failure to take such decisions) and 79(a) (determination of appeals) of the 1990 Act;
- (b) any orders, rules or regulations that make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission.

(2) For the purposes of paragraph (1), orders, rules and regulations make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as they make provision in relation to—

- (a) an application for such a consent, agreement or approval;
- (b) the grant or refusal of such an application; or

(a) Section 78 was amended by section 43(2) of the Planning and Compulsory Purchase Act 2004 (c. 5), paragraph 3(b) of Schedule 10 to the Planning Act 2008 (c. 29), section 123(3) of, and paragraph 11 of Schedule 12 to, the Localism Act 2011 (c. 20), paragraph 8 of Schedule 1 to the Growth and Infrastructure Act 2013 (c.27) and paragraph 12 of Schedule 4 to the Infrastructure Act 2015 (c. 7). Section 79 was amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and by paragraph 4 of Schedule 10 to the Planning Act 2008.

(c) a failure to give notice of a decision on such an application.

(3) Nothing in paragraph (1)(b) affects the application of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Modification of DOW section 36 consent

45. Upon commencement by the undertaker of any Work Nos. 1B, 2B, 3B or 3C, 4B or 4C, 5B or 5C the provisions of the DOW section 36 consent shall be amended as follows—

- (a) In condition 3, substitute “560MW” with “402MW”; and
- (b) In Annex B, under the heading “Maximum Number of Turbines” substitute “77” with “67”.

Compensation

46. Schedule 17 (compensation measures) has effect.

[Signatory text]

Date

Name
Parliamentary Under Secretary of State
Department

SCHEDULE 1 Article 2
Authorised project

PART 1
Authorised development

1. Nationally significant infrastructure projects as defined in sections 14 and 15 of the 2008 Act located in the North Sea approximately 14 kilometres and 25 kilometres to the north of the north Norfolk coast, comprising—

Sheringham Shoal Extension Project

Offshore works

Work No. 1A— in the event of scenario 1, scenario 2, scenario 3 or scenario 4, an offshore wind turbine generating station with a gross electrical output capacity of more than 100 megawatts comprising up to 23 wind turbine generators each fixed to the seabed by piled monopile, suction bucket monopile, piled jacket, suction bucket jacket or gravity base structure foundations;

Work No. 2A—

- (a) in the event of scenario 1, scenario 2, scenario 3 or scenario 4, a network of subsea in-field cables between the wind turbine generators in Work No. 1A including cable protection and one or more cable crossings; and
- (b) in the event of scenario 1, scenario 2 or scenario 3, a network of subsea in-field cables between the wind turbine generators in Work No. 1A and the offshore substation platform in Work No. 3A including cable protection and one or more cable crossings; or
- (c) in the event of scenario 4, a network of subsea in-field cables between the wind turbine generators in Work No. 1A and the integrated offshore substation platform in Work No. 3C including cable protection and one or more cable crossings;

and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

Work No. 3A— in the event of scenario 1, scenario 2 or scenario 3, an offshore substation platform fixed to the seabed by either piled jacket or suction bucket jacket foundations within the area shown on the works plans;

Work No. 4A— in the event of scenario 1, scenario 2 or scenario 3, HVAC subsea export cables between Work No. 3A and Work No. 5A along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 5A— in the event of scenario 1, scenario 2 or scenario 3, HVAC subsea export cables between Work No. 4A and Work No. 7A along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 6A— in the event of scenario 1, scenario 2 or scenario 3, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1A, 2A, 3A, 4A and 5A;

Work No. 7A— in the event of scenario 1, scenario 2 or scenario 3, landfall connection works between Work No. 5A and Work No. 8A comprising of a cable circuit and ducts seaward of MHWS within the area shown on the works plans;

Onshore Works - In the County of Norfolk, districts of North Norfolk, Broadland and South Norfolk

Work No. 8A— in the event of scenario 1, scenario 2 or scenario 3, onshore connection works landward of MHWS consisting of a cable circuit and ducts between Work No. 7A and Work No. 9A and onshore construction works;

Work No. 9A— in the event of scenario 1, scenario 2 or scenario 3, onshore connection works consisting of—

- (a) a transition joint bay;
- (b) a cable circuit and ducts between Work No. 8A and Work No. 12A and in the event of scenario 2 only additional cable ducts for the Dudgeon Extension Project between Work No. 8B and Work No. 12B;
- (c) a link box;
- (d) horizontal directional drilling compound; and
- (e) onshore construction works;

Work No. 10A— a temporary working area (including access) to facilitate Work Nos. 7A, 8A and 9A in the event of scenario 1, scenario 2 or scenario 3 or Work Nos. 7C, 8C and 9C in the event of scenario 4;

Work No. 11A— a permanent access to Work Nos. 7A, 8A and 9A in the event of scenario 1, scenario 2 or scenario 3 or Work Nos. 7C, 8C and 9C in the event of scenario 4;

Work No. 12A—

- (a) in the event of scenario 1, a cable circuit and ducts between Work No. 9A and Work No. 15A and onshore construction works;
- (b) in the event of scenario 2, a cable circuit and ducts between Work No. 9A and Work No. 15A, additional cable ducts for the Dudgeon Extension Project between Work No. 9B and Work No. 15B and onshore construction works; or
- (c) in the event of scenario 3, a cable circuit and ducts between Work No. 9A and Work No. 15C, onshore construction works and, in the event of sequential construction, may include additional cable ducts for the Dudgeon Extension Project between Work No. 9B and Work No. 15C;

Work No. 13A— temporary vehicular access tracks to serve Work Nos. 7A, 8A, 9A, 11A, 12A, 13A and 14A in the event of scenario 1, scenario 2 or scenario 3 or Work Nos. 7C, 8C, 9C, 10A, 11A, 12C and 14A in the event of scenario 4;

Work No. 14A— construction compound areas to assist with the construction of Work Nos. 8A, 9A, 10A, 11A, 12A, 13A and 14A; in the event of scenario 1, scenario 2 or scenario 3 or Work Nos. 8C, 9C, 10C, 11A, 12A, 13C and 14A in the event of scenario 4;

Work No. 15A—

- (a) in the event of scenario 1, an onshore HVAC substation, cable circuits and ducts and onshore construction works; or
- (b) in the event of scenario 2, an onshore HVAC substation, cable circuits and ducts, additional cable ducts for the Dudgeon Extension Project and onshore construction works;

Work No. 16A—

- (a) in the event of scenario 1, a cable circuit and ducts between Work Nos. 15A and 17A, and onshore construction works; or
- (b) in the event of scenario 2, a cable circuit and ducts between Work Nos. 15A and 17A, additional cable ducts for the Dudgeon Extension Project between Work No. 15B, and Work No. 17B and onshore construction works;

Work No. 17A— in the event of scenario 1 or scenario 2, works consisting of export cables and ducts between Work No. 16A and the Norwich Main National Grid substation, including a connection above ground and electrical engineering works within or around the National Grid substation buildings and compound and onshore construction works;

Work No. 18A— permanent works relating to Work Nos. 12A, 15A, 16A, 17A, 19A and 22A in the event of scenario 1 or scenario 2 or Work Nos. 12C, 15C, 16C, 17C, 19A and 22A in the event of scenario 3 or scenario 4, including:—

- (a) flood attenuation and drainage works;
- (b) landscaping;
- (c) ecological mitigation works; and
- (d) onshore construction works;

Work No. 19A— permanent accesses (including onshore construction works) in relation to Work Nos. 12A, 15A, 16A, 17A, 18A and 22A in the event of scenario 1 or scenario 2 or Work Nos. 12C, 15C, 16C, 17C, 18A and 22A in the event of scenario 3 or scenario 4;

Work No. 20A— temporary working areas to facilitate Work Nos. 12A, 15A, 16A, 17A, 18A, 19A and 22A in the event of scenario 1 or scenario 2 or Work Nos. 12C, 15C, 16C, 17C, 18A, 19A and 22A, including:

- (a) temporary works relating to traffic and highway management;
- (b) temporary accesses; and
- (c) onshore construction works;

Work No. 21A— not used;

Work No. 22A— permanent landscaping and ecological mitigation works (including onshore construction works) relating to Work Nos. 12A, 15A, 16A, 17A, 18A and 19A in the event of scenario 1 or scenario 2 or Work Nos. 12C, 15C, 16C, 17C, 18A and 19A in the event of scenario 3 or scenario 4;

Further Associated Development

In connection with such Work Nos. 1A to 7A and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including:—

- (a) scour protection around the foundations of the offshore structures;

- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 1A to 5A and 7A and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits;
- (d) removal of static fishing equipment;
- (e) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project; and
- (f) disposal of drill arisings in connection with any foundation drilling up to a total of 12,371 cubic metres;

and in connection with such Work Nos. 8A to 22A and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) ramps, means of access and footpaths;
- (b) bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (c) habitat creation;
- (d) jointing bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable markers, tiles and tape, lighting and other works associated with cable laying;
- (e) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems and culverting;
- (f) works to alter the position of apparatus, including mains, sewers, drains, cables and pipes;
- (g) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (h) landscaping and other works to investigate, ascertain or mitigate any adverse effects of the construction, maintenance or operation of the authorised project;
- (i) works for the benefit or protection of land affected by the authorised project; and
- (j) working sites in connection with the construction of the authorised project, construction lay down areas and compounds, storage compounds and their restoration.

Dudgeon Extension Project

Offshore works

Work No. 1B— in the event of scenario 1, scenario 2, scenario 3 or scenario 4, an offshore wind turbine generating station with a gross electrical output capacity of more than 100 megawatts comprising up to 30 wind turbine generators located either all in DEP North or split between DEP North and DEP South each fixed to the seabed by piled monopile, suction bucket monopile, piled jacket, suction bucket jacket or gravity base structure foundations;

Work No. 2B—

- (a) in the event of scenario 1, scenario 2, scenario 3 or scenario 4, a network of subsea in-field cables between the wind turbine generators in Work No. 1B including cable protection and one or more cable crossings; and
- (b) in the event of scenario 1, scenario 2 or scenario 3, a network of subsea in-field cables between the wind turbine generators in Work No. 1B and Work No. 3B including cable protection and one or more cable crossings;

and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

Work No. 3B— in the event of scenario 1, scenario 2 or scenario 3, an offshore substation platform fixed to the seabed by either piled jacket or suction bucket jacket foundations within the area shown on the works plans;

Work No. 4B— in the event of scenario 1, scenario 2 or scenario 3—

- (a) interlink cables between DEP North and DEP South within the areas shown on the works plans; and
- (b) HVAC subsea export cables between Work No. 3B and Work No. 5B along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 5B— in the event of scenario 1, scenario 2, or scenario 3, HVAC subsea export cables between Work No. 4B and Work No. 7B along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 6B— in the event of scenario 1, scenario 2 or scenario 3, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1B, 2B, 3B, 4B and 5B;

Work No. 7B— in the event of scenario 1, scenario 2, scenario 3, landfall connection works between Work No. 5B and Work No. 8B comprising of a cable circuit and ducts seaward of MHWS within the area shown on the works plans;

Onshore Works - in the County of Norfolk, districts of North Norfolk, Broadland and South Norfolk

Work No. 8B— in the event of scenario 1, scenario 2 or scenario 3 onshore connection works landward of MHWS consisting of a cable circuit and ducts between Work No. 7B and Work No. 9B and onshore construction works;

Work No. 9B— in the event of scenario 1, scenario 2 or scenario 3, onshore connection works consisting of—

- (a) a transition joint bay;
- (b) a cable circuit and ducts between Work No. 8B and Work No. 12B and in the event of scenario 2 only additional cable ducts for Sheringham Shoal Extension Project between Work No. 8A and Work No. 12A;
- (c) a link box;
- (d) horizontal directional drilling compound; and
- (e) onshore construction works;

Work No. 10B— a temporary working area (including access) to facilitate Work Nos. 7B, 8B and 9B in the event of scenario 1, scenario 2 or scenario 3 or Work Nos. 7C, 8C and 9C in the event of scenario 4;

Work No. 11B— a permanent access to Work Nos. 7B, 8B and 9B in the event of scenario 1, scenario 2, or scenario 3 or Work Nos. 7C, 8C and 9C in the event of scenario 4;

Work No. 12B—

- (a) in the event of scenario 1, a cable circuit and ducts between Work No. 9B and Work No. 15B and onshore construction works; or
- (b) in the event of scenario 2, a cable circuit and ducts between Work No. 9B and Work No. 15B, additional cable ducts for the Sheringham Shoal Extension Project between Work No. 9A and Work No. 15A and onshore construction works; or

- (c) in the event of scenario 3, a cable circuit and ducts between Work No. 9B and Work No. 15C, onshore construction works and, in the event of sequential construction, may include additional cable ducts for the Sheringham Shoal Extension Project between Work No. 9A and Work No. 15C; and

Work No. 13B— temporary vehicular access tracks to serve Work Nos. 7B, 8B, 9B, 10B, 11B, 12B and 14B in the event of scenario 1, scenario 2 or scenario 3 or Work Nos. 7C, 8C, 9C, 10B, 11B, 12C and 14B in the event of scenario 4;

Work No. 14B— construction compound areas to assist with the construction of Work Nos. 7B, 8B, 9B, 10B, 11B, 12B and 13B in the event of scenario 1, scenario 2 or scenario 3 or Work Nos. 7C, 8C, 9C, 10B, 11B, 12C and 13B in the event of scenario 4;

Work No. 15B—

- (a) in the event of scenario 1, an onshore HVAC substation, cable circuits and ducts and onshore construction works; or
- (b) in the event of scenario 2, an onshore HVAC substation, cable circuits and ducts, additional cable ducts for the Sheringham Shoal Extension Project and onshore construction works;

Work No. 16B—

- (a) in the event of scenario 1, a cable circuit and ducts between Work Nos. 15B and 17B, and onshore construction works; or
- (b) in the event of scenario 2, a cable circuit and ducts between Work Nos. 15B and 17B, additional cable ducts for the Sheringham Shoal Extension Project between Work No. 15A and Work No. 17A, and onshore construction works;

Work No. 17B— in the event of scenario 1 or scenario 2, works consisting of export cables and ducts between Work No. 16B and the Norwich Main National Grid substation, including a connection above ground and electrical engineering works within or around the National Grid substation buildings and compound and onshore construction works;

Work No. 18B— permanent works relating to Works Nos. 12B, 15B, 16B, 17B, 19B and 22B in the event of scenario 1 or scenario 2 or Work Nos. 12C, 15C, 16C, 17C, 19B and 22B in the event of scenario 3 or scenario 4, including:

- (a) flood attenuation and drainage works;
- (b) landscaping;
- (c) ecological mitigation works; and
- (d) onshore construction works;

Work No. 19B— permanent accesses (including onshore construction works) in relation to Work Nos. 12B, 15B, 16B, 17B, 18B and 22B in the event of scenario 1 or scenario 2 or Work Nos. 12C, 15C, 16C, 17C, 18B and 22B in the event of scenario 3 or scenario 4;

Work No. 20B— temporary working areas to facilitate Work Nos. 12B, 15B, 16B, 17B, 18B, 19B and 22B in the event of scenario 1 or scenario 2 or Work Nos. 12C, 15C, 16C, 17C, 18B, 19B and 22B in the event of scenario 3 or scenario 4 including:

- (a) temporary works relating to traffic and highway management;
- (b) temporary accesses; and
- (c) onshore construction works;

Work No. 21B— not used;

Work No. 22B— permanent landscaping and ecological mitigation works (including onshore construction works) relating to Work Nos. 12B, 15B, 16B, 17B, 18B and 19B in the event of scenario 1 or scenario 2 or Work Nos. 12C, 15C, 16C, 17C, 18B and 19B in the event of scenario 3 or scenario 4;

Further Associated Development

In connection with such Work Nos. 1B to 7B and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 1B to 7B and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits;
- (d) removal of static fishing equipment;
- (e) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised development; and
- (f) disposal of drill arisings in connection with any foundation drilling up to a total of 12,371 cubic metres;

and in connection with such Work Nos. 8B to 22B and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) ramps, means of access and footpaths;
- (b) bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (c) habitat creation;
- (d) jointing bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable markers, tiles and tape, lighting and other works associated with cable laying;
- (e) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems and culverting;
- (f) works to alter the position of apparatus, including mains, sewers, drains, cables and pipes;
- (g) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (h) landscaping and other works to investigate, ascertain or mitigate any adverse effects of the construction, maintenance or operation of the authorised project;
- (i) works for the benefit or protection of land affected by the authorised project; and
- (j) working sites in connection with the construction of the authorised project, construction lay down areas and compounds, storage compounds and their restoration;

Sheringham Shoal and Dudgeon Extension Projects Integrated works

Offshore Integrated Works

Work No. 3C— in the event of scenario 4, an integrated offshore substation platform fixed to the seabed by either piled jacket or suction bucket jacket foundations within the area shown on the works plans;

Work No. 4C— in the event of scenario 4—

- (a) interlink cables between DEP North and Work No. 3C and DEP South and Work No. 3C; and
- (b) HVAC subsea export cables between Work no. 3C and Work Nos. 5C along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 5C— in the event of scenario 4, HVAC subsea export cables between Work No. 4C and Work No. 7C along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 6C— in the event of scenario 4, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1A, 1B, 2A, 2B, 3C, 4C and 5C;

Work No. 7C— in the event of scenario 4, landfall connection works between Work No. 5C and Work No. 8C comprising of up to 2 cable circuits and ducts seaward of MHWS within the area shown on the works plans;

Onshore Integrated Works

Work No. 8C— in the event of scenario 4, onshore connection works landward of MHWS consisting of up to 2 cable circuits and ducts between Work No. 7C and Work No. 9C and onshore construction works;

Work No. 9C— in the event of scenario 4, onshore connection works consisting of—

- (a) a transition joint bay;
- (b) up to 2 cable circuits and ducts between Work No. 8C and Work No. 12C;
- (c) a link box;
- (d) horizontal directional drilling compound; and
- (e) onshore construction works;

Work No. 12C— in the event of scenario 4, up to 2 cable circuits and ducts between Work No. 8C and Work No. 14C and onshore construction works;

Work No. 15C— in the event of scenario 3 or scenario 4, an integrated onshore substation, cable circuits and ducts and onshore construction works;

Work No. 16C— in the event of scenario 3 or scenario 4, up to two cable circuit and ducts between Work Nos. 14C and 16C, and onshore construction works;

Work No. 17C— in the event of scenario 3 or scenario 4, works consisting of export cables and ducts between Work No. 16C and the Norwich Main National Grid substation, including a connection above ground and electrical engineering works within or around the National Grid substation buildings and compound and onshore construction works;

Further Associated Development

In connection with Work Nos. 3C, 4C, 5C and 7C and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 3C, 4C, 5C and 7C and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable

installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits;

- (d) removal of static fishing equipment;
- (e) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project; and
- (f) disposal of drill arisings in connection with any foundation drilling up to a total of 425 cubic metres;

and in connection with such Work Nos. 8C, 9C, 12C, 15C, 16C and 17C and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) ramps, means of access and footpaths;
- (b) bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (c) habitat creation;
- (d) jointing bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable markers, tiles and tape, lighting and other works associated with cable laying;
- (e) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems and culverting;
- (f) works to alter the position of apparatus, including mains, sewers, drains, cables and pipes;
- (g) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (h) landscaping and other works to investigate, ascertain or mitigate any adverse effects of the construction, maintenance or operation of the authorised project;
- (i) works for the benefit or protection of land affected by the authorised project; and
- (j) working sites in connection with the construction of the authorised project, construction lay down areas and compounds, storage compounds and their restoration.

2. The grid coordinates for that part of the authorised development which is seaward of MHWS are specified below—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 57' 0,139" N	1° 8' 13,019" E
2	52° 57' 0,150" N	1° 8' 12,936" E
3	52° 57' 0,192" N	1° 8' 12,620" E
4	52° 57' 0,286" N	1° 8' 11,866" E
5	52° 57' 0,398" N	1° 8' 11,011" E
6	52° 57' 0,404" N	1° 8' 10,963" E
7	52° 57' 0,502" N	1° 8' 10,178" E
8	52° 57' 0,652" N	1° 8' 9,128" E
9	52° 57' 0,775" N	1° 8' 8,217" E
10	52° 57' 1,013" N	1° 8' 6,561" E
11	52° 57' 1,225" N	1° 8' 5,022" E
12	52° 57' 1,257" N	1° 8' 4,784" E
13	52° 57' 1,415" N	1° 8' 3,615" E
14	52° 57' 1,473" N	1° 8' 3,101" E
15	52° 57' 1,634" N	1° 8' 1,883" E
16	52° 57' 1,757" N	1° 8' 1,003" E
17	52° 57' 1,860" N	1° 8' 0,138" E

18	52° 57' 1,929" N	1° 7' 59,601" E
19	52° 57' 1,966" N	1° 7' 59,330" E
20	52° 57' 2,040" N	1° 7' 58,853" E
21	52° 57' 2,142" N	1° 7' 58,179" E
22	52° 57' 2,239" N	1° 7' 57,564" E
23	52° 57' 2,336" N	1° 7' 56,932" E
24	52° 57' 2,415" N	1° 7' 56,417" E
25	52° 57' 2,534" N	1° 7' 55,487" E
26	52° 57' 2,589" N	1° 7' 55,055" E
27	52° 57' 2,607" N	1° 7' 54,919" E
28	52° 57' 2,696" N	1° 7' 54,127" E
29	52° 57' 2,768" N	1° 7' 53,322" E
30	52° 57' 2,880" N	1° 7' 52,285" E
31	52° 57' 2,897" N	1° 7' 52,130" E
32	52° 57' 3,257" N	1° 7' 49,886" E
33	52° 57' 5,555" N	1° 7' 35,579" E
34	52° 57' 5,611" N	1° 7' 35,229" E
35	52° 57' 5,909" N	1° 7' 33,373" E
36	52° 57' 5,934" N	1° 7' 33,220" E
37	52° 57' 5,939" N	1° 7' 33,185" E
38	52° 57' 6,008" N	1° 7' 32,757" E
39	52° 57' 6,023" N	1° 7' 32,667" E
40	52° 57' 6,120" N	1° 7' 32,062" E
41	52° 57' 6,123" N	1° 7' 32,042" E
42	52° 57' 6,154" N	1° 7' 31,846" E
43	52° 57' 10,740" N	1° 7' 36,861" E
44	52° 57' 19,050" N	1° 7' 45,934" E
45	52° 57' 20,580" N	1° 7' 46,841" E
46	52° 57' 26,870" N	1° 7' 48,679" E
47	52° 57' 48,440" N	1° 7' 54,772" E
48	52° 57' 58,800" N	1° 8' 4,605" E
49	52° 58' 12,220" N	1° 8' 34,066" E
50	52° 58' 34,950" N	1° 9' 36,262" E
51	52° 59' 22,990" N	1° 10' 43,822" E
55	53° 0' 30,361" N	1° 12' 15,823" E
56	53° 0' 46,686" N	1° 12' 29,296" E
57	53° 1' 11,064" N	1° 12' 51,625" E
58	53° 1' 37,543" N	1° 13' 26,533" E
59	53° 1' 57,649" N	1° 13' 52,984" E
60	53° 2' 5,064" N	1° 14' 0,477" E
61	53° 2' 8,039" N	1° 14' 2,369" E
62	53° 2' 13,073" N	1° 14' 5,569" E
63	53° 2' 21,996" N	1° 14' 11,241" E
64	53° 3' 11,052" N	1° 14' 33,328" E
65	53° 4' 6,456" N	1° 14' 56,808" E
66	53° 4' 20,142" N	1° 15' 3,361" E
67	53° 4' 48,003" N	1° 14' 37,022" E
68	53° 5' 0,824" N	1° 14' 22,104" E
69	53° 5' 24,774" N	1° 12' 46,325" E
70	53° 5' 47,202" N	1° 13' 1,718" E

71	53° 5' 47,266" N	1° 13' 1,677" E
72	53° 5' 47,266" N	1° 13' 1,676" E
73	53° 5' 47,540" N	1° 13' 1,498" E
74	53° 5' 47,545" N	1° 13' 1,495" E
75	53° 5' 50,444" N	1° 12' 59,604" E
76	53° 5' 50,506" N	1° 12' 59,565" E
77	53° 6' 19,018" N	1° 12' 40,975" E
78	53° 6' 19,097" N	1° 12' 40,924" E
79	53° 6' 42,962" N	1° 12' 25,364" E
80	53° 6' 43,080" N	1° 12' 25,287" E
81	53° 7' 12,739" N	1° 12' 5,962" E
82	53° 7' 42,397" N	1° 11' 46,630" E
83	53° 8' 12,055" N	1° 11' 27,290" E
84	53° 8' 41,711" N	1° 11' 7,942" E
85	53° 8' 41,717" N	1° 11' 7,938" E
86	53° 8' 49,191" N	1° 11' 3,065" E
87	53° 8' 49,206" N	1° 11' 3,056" E
88	53° 8' 57,559" N	1° 10' 57,610" E
89	53° 8' 57,564" N	1° 10' 57,607" E
90	53° 8' 58,833" N	1° 10' 56,779" E
91	53° 8' 58,859" N	1° 10' 56,762" E
92	53° 9' 10,110" N	1° 10' 9,689" E
93	53° 9' 21,357" N	1° 9' 22,609" E
94	53° 9' 32,598" N	1° 8' 35,522" E
95	53° 9' 43,834" N	1° 7' 48,428" E
96	53° 9' 55,065" N	1° 7' 1,328" E
97	53° 10' 6,290" N	1° 6' 14,221" E
98	53° 10' 17,511" N	1° 5' 27,107" E
99	53° 10' 28,726" N	1° 4' 39,986" E
100	53° 10' 22,650" N	1° 4' 36,278" E
101	53° 10' 42,669" N	1° 3' 5,384" E
102	53° 11' 0,670" N	1° 1' 43,552" E
103	53° 14' 54,927" N	1° 5' 27,526" E
104	53° 10' 44,373" N	1° 12' 1,895" E
105	53° 11' 13,860" N	1° 12' 11,123" E
106	53° 19' 22,035" N	1° 14' 44,392" E
107	53° 19' 24,577" N	1° 14' 40,469" E
108	53° 19' 41,719" N	1° 14' 14,017" E
109	53° 19' 36,290" N	1° 14' 0,796" E
110	53° 19' 26,212" N	1° 13' 36,255" E
111	53° 18' 53,497" N	1° 12' 16,638" E
112	53° 21' 15,721" N	1° 9' 51,844" E
113	53° 21' 16,055" N	1° 16' 30,292" E
114	53° 21' 9,584" N	1° 16' 30,130" E
115	53° 21' 9,588" N	1° 16' 40,944" E
116	53° 21' 9,602" N	1° 17' 32,335" E
117	53° 20' 46,340" N	1° 18' 7,238" E
118	53° 20' 58,886" N	1° 18' 37,507" E
119	53° 21' 16,936" N	1° 18' 58,324" E
120	53° 21' 22,793" N	1° 19' 36,332" E

121	53° 21' 24,406" N	1° 19' 46,805" E
122	53° 21' 30,645" N	1° 19' 43,928" E
123	53° 21' 30,645" N	1° 19' 43,928" E
124	53° 21' 31,501" N	1° 19' 49,484" E
125	53° 22' 5,598" N	1° 23' 31,296" E
126	53° 20' 55,179" N	1° 24' 12,249" E
127	53° 20' 5,815" N	1° 24' 10,859" E
128	53° 19' 37,743" N	1° 24' 18,782" E
129	53° 19' 12,755" N	1° 24' 33,321" E
130	53° 18' 37,856" N	1° 25' 12,778" E
131	53° 18' 20,926" N	1° 25' 33,723" E
132	53° 18' 2,776" N	1° 25' 49,211" E
133	53° 16' 55,907" N	1° 26' 28,297" E
134	53° 18' 28,271" N	1° 23' 16,521" E
135	53° 18' 28,562" N	1° 22' 59,560" E
136	53° 18' 10,100" N	1° 22' 30,186" E
137	53° 18' 5,388" N	1° 22' 22,691" E
138	53° 17' 37,875" N	1° 23' 22,449" E
139	53° 17' 6,386" N	1° 24' 30,794" E
140	53° 16' 34,886" N	1° 25' 39,111" E
141	53° 16' 3,374" N	1° 26' 47,400" E
142	53° 14' 19,176" N	1° 26' 40,362" E
143	53° 14' 41,168" N	1° 25' 55,438" E
144	53° 14' 12,180" N	1° 25' 53,118" E
145	53° 14' 9,751" N	1° 26' 4,136" E
146	53° 14' 8,685" N	1° 26' 8,971" E
147	53° 13' 50,288" N	1° 27' 32,359" E
148	53° 10' 37,646" N	1° 32' 22,747" E
149	53° 9' 2,230" N	1° 28' 24,671" E
150	53° 9' 12,580" N	1° 27' 18,352" E
151	53° 10' 2,657" N	1° 25' 22,375" E
152	53° 11' 16,316" N	1° 25' 28,260" E
153	53° 11' 45,083" N	1° 25' 31,476" E
154	53° 11' 44,501" N	1° 25' 28,959" E
155	53° 9' 25,899" N	1° 15' 31,541" E
156	53° 7' 47,872" N	1° 18' 4,400" E
157	53° 7' 18,106" N	1° 18' 52,228" E
158	53° 5' 11,303" N	1° 17' 34,822" E
159	53° 4' 57,157" N	1° 17' 26,108" E
160	53° 4' 41,993" N	1° 17' 18,707" E
161	53° 4' 16,861" N	1° 17' 6,445" E
162	53° 3' 31,655" N	1° 16' 44,006" E
163	53° 2' 56,728" N	1° 16' 23,297" E
164	53° 2' 36,026" N	1° 16' 13,041" E
165	53° 2' 11,385" N	1° 16' 1,397" E
166	53° 1' 56,679" N	1° 15' 52,961" E
167	53° 1' 53,161" N	1° 15' 50,943" E
168	53° 1' 46,953" N	1° 15' 47,381" E
169	53° 1' 37,328" N	1° 15' 48,044" E
170	53° 1' 15,382" N	1° 15' 49,556" E

171	53° 0' 55,099" N	1° 15' 27,732" E
172	53° 0' 38,892" N	1° 15' 6,464" E
173	53° 0' 24,690" N	1° 14' 49,491" E
174	53° 0' 7,904" N	1° 14' 34,363" E
175	52° 59' 51,516" N	1° 14' 19,153" E
176	52° 59' 30,125" N	1° 13' 52,004" E
177	52° 58' 15,884" N	1° 12' 12,515" E
178	52° 57' 19,880" N	1° 10' 51,261" E
179	52° 56' 53,154" N	1° 10' 16,648" E
180	52° 56' 52,095" N	1° 10' 15,277" E
181	52° 56' 52,094" N	1° 10' 15,235" E
182	52° 56' 52,092" N	1° 10' 15,039" E
183	52° 56' 52,099" N	1° 10' 14,751" E
184	52° 56' 52,117" N	1° 10' 14,407" E
185	52° 56' 52,167" N	1° 10' 13,852" E
186	52° 56' 52,168" N	1° 10' 13,838" E
187	52° 56' 52,205" N	1° 10' 13,440" E
188	52° 56' 52,242" N	1° 10' 12,997" E
189	52° 56' 52,276" N	1° 10' 12,553" E
190	52° 56' 52,311" N	1° 10' 12,109" E
191	52° 56' 52,349" N	1° 10' 11,667" E
192	52° 56' 52,393" N	1° 10' 11,225" E
193	52° 56' 52,452" N	1° 10' 10,727" E
194	52° 56' 52,518" N	1° 10' 10,231" E
195	52° 56' 52,584" N	1° 10' 9,735" E
196	52° 56' 52,645" N	1° 10' 9,237" E
197	52° 56' 52,669" N	1° 10' 9,009" E
198	52° 56' 52,691" N	1° 10' 8,779" E
199	52° 56' 52,710" N	1° 10' 8,549" E
200	52° 56' 52,727" N	1° 10' 8,341" E
201	52° 56' 52,729" N	1° 10' 8,319" E
202	52° 56' 52,748" N	1° 10' 8,089" E
203	52° 56' 52,767" N	1° 10' 7,858" E
204	52° 56' 52,788" N	1° 10' 7,629" E
205	52° 56' 52,812" N	1° 10' 7,400" E
206	52° 56' 52,839" N	1° 10' 7,173" E
207	52° 56' 52,872" N	1° 10' 6,964" E
208	52° 56' 52,913" N	1° 10' 6,759" E
209	52° 56' 52,959" N	1° 10' 6,556" E
210	52° 56' 53,008" N	1° 10' 6,354" E
211	52° 56' 53,057" N	1° 10' 6,152" E
212	52° 56' 53,101" N	1° 10' 5,948" E
213	52° 56' 53,139" N	1° 10' 5,742" E
214	52° 56' 53,167" N	1° 10' 5,531" E
215	52° 56' 53,294" N	1° 10' 4,265" E
216	52° 56' 53,347" N	1° 10' 3,675" E
217	52° 56' 53,374" N	1° 10' 3,380" E
218	52° 56' 53,428" N	1° 10' 2,790" E
219	52° 56' 53,447" N	1° 10' 2,611" E
220	52° 56' 53,470" N	1° 10' 2,435" E

221	52° 56' 53,495" N	1° 10' 2,259" E
222	52° 56' 53,522" N	1° 10' 2,083" E
223	52° 56' 53,549" N	1° 10' 1,907" E
224	52° 56' 53,576" N	1° 10' 1,732" E
225	52° 56' 53,600" N	1° 10' 1,555" E
226	52° 56' 53,621" N	1° 10' 1,377" E
227	52° 56' 53,636" N	1° 10' 1,187" E
228	52° 56' 53,642" N	1° 10' 0,996" E
229	52° 56' 53,642" N	1° 10' 0,803" E
230	52° 56' 53,637" N	1° 10' 0,611" E
231	52° 56' 53,625" N	1° 10' 0,224" E
232	52° 56' 53,622" N	1° 10' 0,031" E
233	52° 56' 53,623" N	1° 9' 59,838" E
234	52° 56' 53,631" N	1° 9' 59,646" E
235	52° 56' 53,648" N	1° 9' 59,467" E
236	52° 56' 53,673" N	1° 9' 59,290" E
237	52° 56' 53,702" N	1° 9' 59,114" E
238	52° 56' 53,735" N	1° 9' 58,939" E
239	52° 56' 53,769" N	1° 9' 58,765" E
240	52° 56' 53,774" N	1° 9' 58,732" E
241	52° 56' 53,800" N	1° 9' 58,589" E
242	52° 56' 53,828" N	1° 9' 58,413" E
243	52° 56' 53,848" N	1° 9' 58,235" E
244	52° 56' 53,859" N	1° 9' 58,055" E
245	52° 56' 53,867" N	1° 9' 57,664" E
246	52° 56' 53,866" N	1° 9' 57,272" E
247	52° 56' 53,859" N	1° 9' 56,881" E
248	52° 56' 53,847" N	1° 9' 56,490" E
249	52° 56' 53,836" N	1° 9' 56,215" E
250	52° 56' 53,821" N	1° 9' 55,941" E
251	52° 56' 53,672" N	1° 9' 54,467" E
252	52° 56' 53,607" N	1° 9' 53,772" E
253	52° 56' 53,669" N	1° 9' 53,180" E
254	52° 56' 53,873" N	1° 9' 51,996" E
255	52° 56' 53,989" N	1° 9' 51,045" E
256	52° 56' 54,041" N	1° 9' 50,536" E
257	52° 56' 54,109" N	1° 9' 49,723" E
258	52° 56' 54,175" N	1° 9' 48,910" E
259	52° 56' 54,239" N	1° 9' 48,096" E
260	52° 56' 54,254" N	1° 9' 47,907" E
261	52° 56' 54,270" N	1° 9' 47,718" E
262	52° 56' 54,287" N	1° 9' 47,529" E
263	52° 56' 54,303" N	1° 9' 47,340" E
264	52° 56' 54,318" N	1° 9' 47,150" E
265	52° 56' 54,332" N	1° 9' 46,961" E
266	52° 56' 54,342" N	1° 9' 46,771" E
267	52° 56' 54,349" N	1° 9' 46,581" E
268	52° 56' 54,353" N	1° 9' 46,391" E
269	52° 56' 54,328" N	1° 9' 45,824" E
270	52° 56' 54,300" N	1° 9' 45,416" E

271	52° 56' 54,289" N	1° 9' 45,258" E
272	52° 56' 54,280" N	1° 9' 45,064" E
273	52° 56' 54,271" N	1° 9' 44,870" E
274	52° 56' 54,253" N	1° 9' 44,481" E
275	52° 56' 54,244" N	1° 9' 44,287" E
276	52° 56' 54,237" N	1° 9' 44,092" E
277	52° 56' 54,231" N	1° 9' 43,898" E
278	52° 56' 54,227" N	1° 9' 43,703" E
279	52° 56' 54,225" N	1° 9' 43,508" E
280	52° 56' 54,259" N	1° 9' 42,898" E
281	52° 56' 54,310" N	1° 9' 42,288" E
282	52° 56' 54,354" N	1° 9' 41,403" E
283	52° 56' 54,398" N	1° 9' 40,519" E
284	52° 56' 54,440" N	1° 9' 39,634" E
285	52° 56' 54,460" N	1° 9' 39,174" E
286	52° 56' 54,478" N	1° 9' 38,714" E
287	52° 56' 54,496" N	1° 9' 38,254" E
288	52° 56' 54,514" N	1° 9' 37,794" E
289	52° 56' 54,534" N	1° 9' 37,334" E
290	52° 56' 54,546" N	1° 9' 37,116" E
291	52° 56' 54,562" N	1° 9' 36,899" E
292	52° 56' 54,580" N	1° 9' 36,683" E
293	52° 56' 54,599" N	1° 9' 36,466" E
294	52° 56' 54,615" N	1° 9' 36,250" E
295	52° 56' 54,628" N	1° 9' 36,033" E
296	52° 56' 54,635" N	1° 9' 35,815" E
297	52° 56' 54,628" N	1° 9' 35,302" E
298	52° 56' 54,603" N	1° 9' 34,789" E
299	52° 56' 54,586" N	1° 9' 34,276" E
300	52° 56' 54,578" N	1° 9' 33,422" E
301	52° 56' 54,571" N	1° 9' 32,568" E
302	52° 56' 54,563" N	1° 9' 31,713" E
303	52° 56' 54,559" N	1° 9' 31,484" E
304	52° 56' 54,553" N	1° 9' 31,255" E
305	52° 56' 54,546" N	1° 9' 31,025" E
306	52° 56' 54,542" N	1° 9' 30,796" E
307	52° 56' 54,542" N	1° 9' 30,567" E
308	52° 56' 54,558" N	1° 9' 30,144" E
309	52° 56' 54,589" N	1° 9' 29,722" E
310	52° 56' 54,624" N	1° 9' 29,301" E
311	52° 56' 54,653" N	1° 9' 28,879" E
312	52° 56' 54,661" N	1° 9' 28,720" E
313	52° 56' 54,668" N	1° 9' 28,561" E
314	52° 56' 54,675" N	1° 9' 28,402" E
315	52° 56' 54,682" N	1° 9' 28,242" E
316	52° 56' 54,687" N	1° 9' 28,083" E
317	52° 56' 54,691" N	1° 9' 27,923" E
318	52° 56' 54,693" N	1° 9' 27,764" E
319	52° 56' 54,694" N	1° 9' 27,604" E
320	52° 56' 54,690" N	1° 9' 27,438" E

321	52° 56' 54,680" N	1° 9' 27,273" E
322	52° 56' 54,664" N	1° 9' 27,109" E
323	52° 56' 54,643" N	1° 9' 26,945" E
324	52° 56' 54,630" N	1° 9' 26,860" E
325	52° 56' 54,631" N	1° 9' 26,827" E
326	52° 56' 54,664" N	1° 9' 25,966" E
327	52° 56' 54,694" N	1° 9' 25,197" E
328	52° 56' 54,708" N	1° 9' 24,908" E
329	52° 56' 54,755" N	1° 9' 24,108" E
330	52° 56' 54,825" N	1° 9' 22,821" E
331	52° 56' 54,902" N	1° 9' 21,380" E
332	52° 56' 54,954" N	1° 9' 20,542" E
333	52° 56' 54,988" N	1° 9' 19,874" E
334	52° 56' 55,005" N	1° 9' 19,463" E
335	52° 56' 55,021" N	1° 9' 19,228" E
336	52° 56' 55,096" N	1° 9' 18,274" E
337	52° 56' 55,133" N	1° 9' 17,756" E
338	52° 56' 55,159" N	1° 9' 17,538" E
339	52° 56' 55,187" N	1° 9' 17,240" E
340	52° 56' 55,258" N	1° 9' 16,558" E
341	52° 56' 55,336" N	1° 9' 15,883" E
342	52° 56' 55,442" N	1° 9' 14,936" E
343	52° 56' 55,566" N	1° 9' 13,609" E
344	52° 56' 55,689" N	1° 9' 12,143" E
345	52° 56' 55,724" N	1° 9' 11,700" E
346	52° 56' 55,761" N	1° 9' 11,231" E
347	52° 56' 55,789" N	1° 9' 10,675" E
348	52° 56' 55,816" N	1° 9' 10,210" E
349	52° 56' 55,838" N	1° 9' 9,767" E
350	52° 56' 55,855" N	1° 9' 9,204" E
351	52° 56' 55,878" N	1° 9' 8,627" E
352	52° 56' 55,882" N	1° 9' 8,037" E
353	52° 56' 55,885" N	1° 9' 7,479" E
354	52° 56' 55,894" N	1° 9' 6,938" E
355	52° 56' 55,906" N	1° 9' 6,520" E
356	52° 56' 55,940" N	1° 9' 5,589" E
357	52° 56' 55,960" N	1° 9' 4,555" E
358	52° 56' 55,985" N	1° 9' 3,908" E
359	52° 56' 56,007" N	1° 9' 3,035" E
360	52° 56' 56,043" N	1° 9' 2,131" E
361	52° 56' 56,081" N	1° 9' 1,281" E
362	52° 56' 56,125" N	1° 9' 0,426" E
363	52° 56' 56,138" N	1° 9' 0,083" E
364	52° 56' 56,144" N	1° 9' 0,019" E
365	52° 56' 56,142" N	1° 8' 59,955" E
366	52° 56' 56,135" N	1° 8' 59,853" E
367	52° 56' 56,120" N	1° 8' 59,728" E
368	52° 56' 56,115" N	1° 8' 59,685" E
369	52° 56' 56,113" N	1° 8' 59,636" E
370	52° 56' 56,116" N	1° 8' 59,535" E

371	52° 56' 56,126" N	1° 8' 59,396" E
372	52° 56' 56,149" N	1° 8' 59,280" E
373	52° 56' 56,156" N	1° 8' 59,130" E
374	52° 56' 56,160" N	1° 8' 59,023" E
375	52° 56' 56,159" N	1° 8' 58,921" E
376	52° 56' 56,153" N	1° 8' 58,797" E
377	52° 56' 56,149" N	1° 8' 58,711" E
378	52° 56' 56,158" N	1° 8' 58,620" E
379	52° 56' 56,166" N	1° 8' 58,567" E
380	52° 56' 56,177" N	1° 8' 58,514" E
381	52° 56' 56,199" N	1° 8' 58,436" E
382	52° 56' 56,210" N	1° 8' 58,388" E
383	52° 56' 56,221" N	1° 8' 58,336" E
384	52° 56' 56,229" N	1° 8' 58,283" E
385	52° 56' 56,234" N	1° 8' 58,224" E
386	52° 56' 56,236" N	1° 8' 58,154" E
387	52° 56' 56,232" N	1° 8' 58,084" E
388	52° 56' 56,213" N	1° 8' 57,949" E
389	52° 56' 56,196" N	1° 8' 57,851" E
390	52° 56' 56,191" N	1° 8' 57,792" E
391	52° 56' 56,190" N	1° 8' 57,727" E
392	52° 56' 56,192" N	1° 8' 57,652" E
393	52° 56' 56,200" N	1° 8' 57,578" E
394	52° 56' 56,212" N	1° 8' 57,482" E
395	52° 56' 56,230" N	1° 8' 57,392" E
396	52° 56' 56,244" N	1° 8' 57,351" E
397	52° 56' 56,255" N	1° 8' 57,303" E
398	52° 56' 56,267" N	1° 8' 57,218" E
399	52° 56' 56,273" N	1° 8' 57,122" E
400	52° 56' 56,271" N	1° 8' 56,950" E
401	52° 56' 56,256" N	1° 8' 56,751" E
402	52° 56' 56,247" N	1° 8' 56,601" E
403	52° 56' 56,242" N	1° 8' 56,536" E
404	52° 56' 56,244" N	1° 8' 56,472" E
405	52° 56' 56,260" N	1° 8' 56,361" E
406	52° 56' 56,274" N	1° 8' 56,303" E
407	52° 56' 56,285" N	1° 8' 56,239" E
408	52° 56' 56,307" N	1° 8' 56,021" E
409	52° 56' 56,320" N	1° 8' 55,647" E
410	52° 56' 56,327" N	1° 8' 55,080" E
411	52° 56' 56,337" N	1° 8' 54,834" E
412	52° 56' 56,357" N	1° 8' 54,434" E
413	52° 56' 56,378" N	1° 8' 53,980" E
414	52° 56' 56,405" N	1° 8' 53,527" E
415	52° 56' 56,442" N	1° 8' 52,977" E
416	52° 56' 56,474" N	1° 8' 52,583" E
417	52° 56' 56,485" N	1° 8' 52,402" E
418	52° 56' 56,493" N	1° 8' 52,215" E
419	52° 56' 56,496" N	1° 8' 52,018" E
420	52° 56' 56,571" N	1° 8' 50,912" E

421	52° 56' 56,607" N	1° 8' 50,422" E
422	52° 56' 56,644" N	1° 8' 49,931" E
423	52° 56' 56,682" N	1° 8' 49,441" E
424	52° 56' 56,719" N	1° 8' 48,951" E
425	52° 56' 56,755" N	1° 8' 48,460" E
426	52° 56' 56,778" N	1° 8' 48,023" E
427	52° 56' 56,793" N	1° 8' 47,584" E
428	52° 56' 56,804" N	1° 8' 47,144" E
429	52° 56' 56,821" N	1° 8' 46,705" E
430	52° 56' 56,849" N	1° 8' 46,269" E
431	52° 56' 57,031" N	1° 8' 44,094" E
432	52° 56' 57,143" N	1° 8' 42,757" E
433	52° 56' 57,183" N	1° 8' 42,274" E
434	52° 56' 57,208" N	1° 8' 42,038" E
435	52° 56' 57,216" N	1° 8' 41,942" E
436	52° 56' 57,222" N	1° 8' 41,846" E
437	52° 56' 57,222" N	1° 8' 41,826" E
438	52° 56' 57,242" N	1° 8' 41,608" E
439	52° 56' 57,243" N	1° 8' 41,601" E
440	52° 56' 57,276" N	1° 8' 41,405" E
441	52° 56' 57,304" N	1° 8' 41,209" E
442	52° 56' 57,335" N	1° 8' 40,949" E
443	52° 56' 57,367" N	1° 8' 40,652" E
444	52° 56' 57,390" N	1° 8' 40,348" E
445	52° 56' 57,409" N	1° 8' 40,076" E
446	52° 56' 57,426" N	1° 8' 39,917" E
447	52° 56' 57,434" N	1° 8' 39,811" E
448	52° 56' 57,442" N	1° 8' 39,576" E
449	52° 56' 57,443" N	1° 8' 39,487" E
450	52° 56' 57,471" N	1° 8' 39,155" E
451	52° 56' 57,517" N	1° 8' 38,578" E
452	52° 56' 57,560" N	1° 8' 37,999" E
453	52° 56' 57,601" N	1° 8' 37,421" E
454	52° 56' 57,628" N	1° 8' 36,995" E
455	52° 56' 57,651" N	1° 8' 36,569" E
456	52° 56' 57,673" N	1° 8' 36,143" E
457	52° 56' 57,696" N	1° 8' 35,716" E
458	52° 56' 57,723" N	1° 8' 35,291" E
459	52° 56' 57,756" N	1° 8' 34,877" E
460	52° 56' 57,791" N	1° 8' 34,520" E
461	52° 56' 57,805" N	1° 8' 34,405" E
462	52° 56' 57,833" N	1° 8' 34,187" E
463	52° 56' 57,854" N	1° 8' 33,996" E
464	52° 56' 57,876" N	1° 8' 33,767" E
465	52° 56' 57,909" N	1° 8' 33,475" E
466	52° 56' 57,937" N	1° 8' 33,262" E
467	52° 56' 57,958" N	1° 8' 33,060" E
468	52° 56' 57,974" N	1° 8' 32,825" E
469	52° 56' 57,988" N	1° 8' 32,547" E
470	52° 56' 57,996" N	1° 8' 32,371" E

471	52° 56' 58,009" N	1° 8' 32,099" E
472	52° 56' 58,026" N	1° 8' 31,698" E
473	52° 56' 58,053" N	1° 8' 31,164" E
474	52° 56' 58,091" N	1° 8' 30,706" E
475	52° 56' 58,128" N	1° 8' 30,178" E
476	52° 56' 58,173" N	1° 8' 29,592" E
477	52° 56' 58,219" N	1° 8' 29,048" E
478	52° 56' 58,278" N	1° 8' 28,431" E
479	52° 56' 58,343" N	1° 8' 27,669" E
480	52° 56' 58,359" N	1° 8' 27,381" E
481	52° 56' 58,372" N	1° 8' 27,216" E
482	52° 56' 58,390" N	1° 8' 26,964" E
483	52° 56' 58,392" N	1° 8' 26,912" E
484	52° 56' 58,399" N	1° 8' 26,837" E
485	52° 56' 58,403" N	1° 8' 26,797" E
486	52° 56' 58,398" N	1° 8' 26,780" E
487	52° 56' 57,591" N	1° 8' 23,453" E
488	52° 56' 57,607" N	1° 8' 23,312" E
489	52° 56' 57,696" N	1° 8' 22,616" E
490	52° 56' 57,736" N	1° 8' 22,254" E
491	52° 56' 57,819" N	1° 8' 21,510" E
492	52° 56' 58,021" N	1° 8' 19,543" E
493	52° 56' 58,154" N	1° 8' 18,288" E
494	52° 56' 58,156" N	1° 8' 18,267" E
495	52° 56' 58,293" N	1° 8' 16,991" E
496	52° 56' 58,371" N	1° 8' 16,290" E
497	52° 56' 58,452" N	1° 8' 15,590" E
498	52° 56' 58,533" N	1° 8' 14,889" E
499	52° 56' 58,611" N	1° 8' 14,188" E
500	52° 56' 58,684" N	1° 8' 13,438" E
501	52° 56' 58,747" N	1° 8' 12,686" E
502	52° 56' 58,808" N	1° 8' 11,957" E
503	52° 56' 59,726" N	1° 8' 12,960" E
504	52° 57' 0,102" N	1° 8' 13,371" E
505	53° 10' 25,477" N	1° 14' 43,972" E
506	53° 12' 29,925" N	1° 23' 41,529" E
507	53° 13' 37,575" N	1° 21' 15,819" E
508	53° 13' 38,222" N	1° 21' 13,292" E
509	53° 13' 39,087" N	1° 21' 10,499" E
510	53° 13' 39,861" N	1° 21' 8,335" E
511	53° 13' 40,479" N	1° 21' 6,766" E
512	53° 13' 41,191" N	1° 21' 5,076" E
513	53° 15' 1,825" N	1° 18' 14,021" E
514	53° 15' 1,855" N	1° 18' 13,955" E
515	53° 15' 1,962" N	1° 18' 13,727" E
516	53° 15' 2,070" N	1° 18' 13,499" E
517	53° 15' 2,163" N	1° 18' 13,302" E
518	53° 15' 2,202" N	1° 18' 13,221" E
519	53° 15' 2,292" N	1° 18' 13,034" E
520	53° 15' 2,400" N	1° 18' 12,808" E

521	53° 15' 2,511" N	1° 18' 12,580" E
522	53° 15' 2,622" N	1° 18' 12,353" E
523	53° 15' 2,733" N	1° 18' 12,126" E
524	53° 15' 2,845" N	1° 18' 11,900" E
525	53° 15' 2,958" N	1° 18' 11,675" E
526	53° 15' 3,071" N	1° 18' 11,450" E
527	53° 15' 3,185" N	1° 18' 11,226" E
528	53° 15' 3,298" N	1° 18' 11,003" E
529	53° 15' 3,413" N	1° 18' 10,780" E
530	53° 15' 3,528" N	1° 18' 10,557" E
531	53° 15' 3,643" N	1° 18' 10,336" E
532	53° 15' 3,759" N	1° 18' 10,115" E
533	53° 15' 3,875" N	1° 18' 9,895" E
534	53° 15' 3,992" N	1° 18' 9,676" E
535	53° 15' 4,109" N	1° 18' 9,458" E
536	53° 15' 4,227" N	1° 18' 9,240" E
537	53° 15' 4,345" N	1° 18' 9,022" E
538	53° 15' 4,462" N	1° 18' 8,808" E
539	53° 15' 4,562" N	1° 18' 8,627" E
540	53° 15' 4,605" N	1° 18' 8,549" E
541	53° 15' 4,703" N	1° 18' 8,372" E
542	53° 15' 4,822" N	1° 18' 8,160" E
543	53° 15' 4,942" N	1° 18' 7,946" E
544	53° 15' 5,063" N	1° 18' 7,733" E
545	53° 15' 5,184" N	1° 18' 7,521" E
546	53° 15' 5,306" N	1° 18' 7,309" E
547	53° 15' 5,428" N	1° 18' 7,098" E
548	53° 15' 5,551" N	1° 18' 6,888" E
549	53° 15' 5,674" N	1° 18' 6,678" E
550	53° 15' 5,797" N	1° 18' 6,469" E
551	53° 15' 5,921" N	1° 18' 6,262" E
552	53° 15' 6,046" N	1° 18' 6,054" E
553	53° 15' 6,170" N	1° 18' 5,847" E
554	53° 15' 6,296" N	1° 18' 5,641" E
555	53° 15' 6,421" N	1° 18' 5,436" E
556	53° 15' 6,547" N	1° 18' 5,232" E
557	53° 15' 6,674" N	1° 18' 5,028" E
558	53° 15' 6,801" N	1° 18' 4,825" E
559	53° 15' 6,926" N	1° 18' 4,626" E
560	53° 15' 7,032" N	1° 18' 4,458" E
561	53° 15' 7,078" N	1° 18' 4,387" E
562	53° 15' 7,186" N	1° 18' 4,218" E
563	53° 15' 7,313" N	1° 18' 4,021" E
564	53° 15' 7,442" N	1° 18' 3,821" E
565	53° 15' 7,571" N	1° 18' 3,623" E
566	53° 15' 7,701" N	1° 18' 3,425" E
567	53° 15' 7,832" N	1° 18' 3,228" E
568	53° 15' 7,962" N	1° 18' 3,032" E
569	53° 15' 8,094" N	1° 18' 2,836" E
570	53° 15' 8,225" N	1° 18' 2,642" E

571	53° 15' 8,357" N	1° 18' 2,448" E
572	53° 15' 8,489" N	1° 18' 2,255" E
573	53° 15' 8,622" N	1° 18' 2,063" E
574	53° 15' 8,755" N	1° 18' 1,871" E
575	53° 15' 8,889" N	1° 18' 1,680" E
576	53° 15' 9,023" N	1° 18' 1,491" E
577	53° 15' 9,157" N	1° 18' 1,301" E
578	53° 15' 9,292" N	1° 18' 1,112" E
579	53° 15' 9,427" N	1° 18' 0,925" E
580	53° 15' 9,562" N	1° 18' 0,738" E
581	53° 15' 9,697" N	1° 18' 0,555" E
582	53° 15' 9,808" N	1° 18' 0,403" E
583	53° 15' 9,856" N	1° 18' 0,339" E
584	53° 15' 9,973" N	1° 18' 0,180" E
585	53° 15' 10,108" N	1° 18' 0,000" E
586	53° 15' 10,246" N	1° 17' 59,816" E
587	53° 15' 10,384" N	1° 17' 59,634" E
588	53° 15' 10,522" N	1° 17' 59,453" E
589	53° 15' 10,661" N	1° 17' 59,272" E
590	53° 15' 10,800" N	1° 17' 59,093" E
591	53° 15' 10,940" N	1° 17' 58,914" E
592	53° 15' 11,079" N	1° 17' 58,736" E
593	53° 15' 11,219" N	1° 17' 58,559" E
594	53° 15' 11,360" N	1° 17' 58,382" E
595	53° 15' 11,501" N	1° 17' 58,206" E
596	53° 15' 11,642" N	1° 17' 58,032" E
597	53° 15' 11,784" N	1° 17' 57,858" E
598	53° 15' 11,926" N	1° 17' 57,685" E
599	53° 15' 12,068" N	1° 17' 57,513" E
600	53° 15' 12,211" N	1° 17' 57,341" E
601	53° 15' 12,354" N	1° 17' 57,171" E
602	53° 15' 12,497" N	1° 17' 57,001" E
603	53° 15' 12,641" N	1° 17' 56,832" E
604	53° 15' 12,785" N	1° 17' 56,664" E
605	53° 15' 12,930" N	1° 17' 56,497" E
606	53° 15' 13,075" N	1° 17' 56,331" E
607	53° 15' 13,220" N	1° 17' 56,165" E
608	53° 15' 13,365" N	1° 17' 56,000" E
609	53° 15' 13,511" N	1° 17' 55,837" E
610	53° 15' 13,657" N	1° 17' 55,674" E
611	53° 15' 13,804" N	1° 17' 55,512" E
612	53° 15' 13,951" N	1° 17' 55,351" E
613	53° 15' 14,098" N	1° 17' 55,190" E
614	53° 15' 14,246" N	1° 17' 55,030" E
615	53° 15' 14,394" N	1° 17' 54,872" E
616	53° 15' 14,542" N	1° 17' 54,714" E
617	53° 15' 14,691" N	1° 17' 54,557" E
618	53° 15' 14,839" N	1° 17' 54,401" E
619	53° 15' 14,989" N	1° 17' 54,246" E
620	53° 15' 15,138" N	1° 17' 54,092" E

621	53° 15' 15,288" N	1° 17' 53,938" E
622	53° 15' 15,438" N	1° 17' 53,786" E
623	53° 15' 15,589" N	1° 17' 53,634" E
624	53° 15' 15,738" N	1° 17' 53,485" E
625	53° 15' 15,868" N	1° 17' 53,356" E
626	53° 15' 15,920" N	1° 17' 53,304" E
627	53° 15' 16,045" N	1° 17' 53,182" E
628	53° 15' 16,194" N	1° 17' 53,036" E
629	53° 15' 16,346" N	1° 17' 52,889" E
630	53° 15' 16,499" N	1° 17' 52,743" E
631	53° 15' 16,652" N	1° 17' 52,597" E
632	53° 15' 16,804" N	1° 17' 52,453" E
633	53° 15' 16,958" N	1° 17' 52,309" E
634	53° 15' 17,111" N	1° 17' 52,166" E
635	53° 15' 17,265" N	1° 17' 52,024" E
636	53° 15' 17,419" N	1° 17' 51,883" E
637	53° 15' 17,574" N	1° 17' 51,743" E
638	53° 15' 17,729" N	1° 17' 51,604" E
639	53° 15' 17,884" N	1° 17' 51,466" E
640	53° 15' 18,039" N	1° 17' 51,328" E
641	53° 15' 18,195" N	1° 17' 51,192" E
642	53° 15' 18,351" N	1° 17' 51,057" E
643	53° 15' 18,507" N	1° 17' 50,922" E
644	53° 15' 18,664" N	1° 17' 50,788" E
645	53° 15' 18,821" N	1° 17' 50,655" E
646	53° 15' 18,976" N	1° 17' 50,525" E
647	53° 15' 19,109" N	1° 17' 50,414" E
648	53° 15' 19,165" N	1° 17' 50,368" E
649	53° 15' 19,295" N	1° 17' 50,261" E
650	53° 15' 19,451" N	1° 17' 50,133" E
651	53° 15' 19,609" N	1° 17' 50,005" E
652	53° 15' 19,767" N	1° 17' 49,878" E
653	53° 15' 19,926" N	1° 17' 49,752" E
654	53° 15' 20,085" N	1° 17' 49,626" E
655	53° 15' 20,244" N	1° 17' 49,502" E
656	53° 15' 20,404" N	1° 17' 49,378" E
657	53° 15' 20,564" N	1° 17' 49,256" E
658	53° 15' 20,724" N	1° 17' 49,134" E
659	53° 15' 20,884" N	1° 17' 49,013" E
660	53° 15' 21,045" N	1° 17' 48,893" E
661	53° 15' 21,205" N	1° 17' 48,775" E
662	53° 15' 21,366" N	1° 17' 48,657" E
663	53° 15' 21,528" N	1° 17' 48,539" E
664	53° 15' 21,689" N	1° 17' 48,424" E
665	53° 15' 21,851" N	1° 17' 48,308" E
666	53° 15' 22,013" N	1° 17' 48,194" E
667	53° 15' 22,175" N	1° 17' 48,081" E
668	53° 15' 22,336" N	1° 17' 47,970" E
669	53° 15' 22,470" N	1° 17' 47,878" E
670	53° 15' 22,530" N	1° 17' 47,838" E

671	53° 15' 22,666" N	1° 17' 47,746" E
672	53° 15' 22,827" N	1° 17' 47,638" E
673	53° 15' 22,990" N	1° 17' 47,530" E
674	53° 15' 23,153" N	1° 17' 47,422" E
675	53° 15' 23,317" N	1° 17' 47,315" E
676	53° 15' 23,481" N	1° 17' 47,210" E
677	53° 15' 23,646" N	1° 17' 47,105" E
678	53° 15' 23,810" N	1° 17' 47,002" E
679	53° 15' 23,975" N	1° 17' 46,899" E
680	53° 15' 24,140" N	1° 17' 46,797" E
681	53° 15' 24,305" N	1° 17' 46,696" E
682	53° 15' 24,471" N	1° 17' 46,597" E
683	53° 15' 24,636" N	1° 17' 46,498" E
684	53° 15' 24,802" N	1° 17' 46,400" E
685	53° 15' 24,968" N	1° 17' 46,303" E
686	53° 15' 25,135" N	1° 17' 46,207" E
687	53° 15' 25,300" N	1° 17' 46,112" E
688	53° 15' 25,467" N	1° 17' 46,019" E
689	53° 15' 25,632" N	1° 17' 45,926" E
690	53° 15' 25,770" N	1° 17' 45,851" E
691	53° 15' 25,829" N	1° 17' 45,818" E
692	53° 15' 25,970" N	1° 17' 45,741" E
693	53° 15' 26,136" N	1° 17' 45,652" E
694	53° 15' 26,303" N	1° 17' 45,563" E
695	53° 15' 26,471" N	1° 17' 45,475" E
696	53° 15' 26,639" N	1° 17' 45,388" E
697	53° 15' 26,807" N	1° 17' 45,302" E
698	53° 15' 26,975" N	1° 17' 45,217" E
699	53° 15' 27,144" N	1° 17' 45,133" E
700	53° 15' 27,312" N	1° 17' 45,049" E
701	53° 15' 27,481" N	1° 17' 44,967" E
702	53° 15' 27,650" N	1° 17' 44,886" E
703	53° 15' 27,819" N	1° 17' 44,806" E
704	53° 15' 27,989" N	1° 17' 44,726" E
705	53° 15' 28,158" N	1° 17' 44,648" E
706	53° 15' 28,328" N	1° 17' 44,571" E
707	53° 15' 28,498" N	1° 17' 44,495" E
708	53° 15' 28,668" N	1° 17' 44,420" E
709	53° 15' 28,838" N	1° 17' 44,345" E
710	53° 15' 29,008" N	1° 17' 44,272" E
711	53° 15' 29,177" N	1° 17' 44,201" E
712	53° 15' 29,315" N	1° 17' 44,143" E
713	53° 15' 29,374" N	1° 17' 44,118" E
714	53° 15' 29,522" N	1° 17' 44,057" E
715	53° 15' 29,691" N	1° 17' 43,989" E
716	53° 15' 29,862" N	1° 17' 43,921" E
717	53° 15' 30,033" N	1° 17' 43,853" E
718	53° 15' 30,204" N	1° 17' 43,787" E
719	53° 15' 30,376" N	1° 17' 43,722" E
720	53° 15' 30,548" N	1° 17' 43,658" E

721	53° 15' 30,719" N	1° 17' 43,594" E
722	53° 15' 30,892" N	1° 17' 43,532" E
723	53° 15' 31,063" N	1° 17' 43,471" E
724	53° 15' 31,235" N	1° 17' 43,411" E
725	53° 15' 31,408" N	1° 17' 43,351" E
726	53° 15' 31,580" N	1° 17' 43,293" E
727	53° 15' 31,752" N	1° 17' 43,236" E
728	53° 15' 31,925" N	1° 17' 43,180" E
729	53° 15' 32,098" N	1° 17' 43,124" E
730	53° 15' 32,270" N	1° 17' 43,070" E
731	53° 15' 32,444" N	1° 17' 43,017" E
732	53° 15' 32,617" N	1° 17' 42,965" E
733	53° 15' 32,789" N	1° 17' 42,914" E
734	53° 15' 32,963" N	1° 17' 42,864" E
735	53° 15' 33,137" N	1° 17' 42,814" E
736	53° 15' 33,310" N	1° 17' 42,766" E
737	53° 15' 33,484" N	1° 17' 42,719" E
738	53° 15' 33,657" N	1° 17' 42,673" E
739	53° 15' 33,831" N	1° 17' 42,628" E
740	53° 15' 34,005" N	1° 17' 42,584" E
741	53° 15' 34,179" N	1° 17' 42,541" E
742	53° 15' 34,353" N	1° 17' 42,499" E
743	53° 15' 34,527" N	1° 17' 42,458" E
744	53° 15' 34,701" N	1° 17' 42,418" E
745	53° 15' 34,876" N	1° 17' 42,379" E
746	53° 15' 35,050" N	1° 17' 42,341" E
747	53° 15' 35,225" N	1° 17' 42,304" E
748	53° 15' 35,399" N	1° 17' 42,268" E
749	53° 15' 35,574" N	1° 17' 42,233" E
750	53° 15' 35,749" N	1° 17' 42,199" E
751	53° 15' 35,923" N	1° 17' 42,167" E
752	53° 15' 36,098" N	1° 17' 42,135" E
753	53° 15' 36,273" N	1° 17' 42,104" E
754	53° 15' 36,446" N	1° 17' 42,074" E
755	53° 15' 36,597" N	1° 17' 42,050" E
756	53° 15' 36,656" N	1° 17' 42,040" E
757	53° 15' 36,801" N	1° 17' 42,017" E
758	53° 15' 36,974" N	1° 17' 41,991" E
759	53° 15' 37,148" N	1° 17' 41,965" E
760	53° 15' 37,323" N	1° 17' 41,941" E
761	53° 15' 37,499" N	1° 17' 41,917" E
762	53° 15' 37,675" N	1° 17' 41,894" E
763	53° 15' 37,850" N	1° 17' 41,873" E
764	53° 15' 38,025" N	1° 17' 41,852" E
765	53° 15' 38,201" N	1° 17' 41,833" E
766	53° 15' 38,376" N	1° 17' 41,814" E
767	53° 15' 38,552" N	1° 17' 41,797" E
768	53° 15' 38,728" N	1° 17' 41,780" E
769	53° 15' 38,903" N	1° 17' 41,765" E
770	53° 15' 39,078" N	1° 17' 41,751" E

771	53° 15' 39,254" N	1° 17' 41,737" E
772	53° 15' 39,430" N	1° 17' 41,725" E
773	53° 15' 39,606" N	1° 17' 41,714" E
774	53° 15' 39,782" N	1° 17' 41,703" E
775	53° 15' 39,957" N	1° 17' 41,694" E
776	53° 15' 40,131" N	1° 17' 41,686" E
777	53° 15' 40,281" N	1° 17' 41,680" E
778	53° 15' 40,344" N	1° 17' 41,677" E
779	53° 15' 40,487" N	1° 17' 41,672" E
780	53° 15' 40,660" N	1° 17' 41,667" E
781	53° 15' 40,837" N	1° 17' 41,663" E
782	53° 15' 41,013" N	1° 17' 41,660" E
783	53° 15' 41,188" N	1° 17' 41,658" E
784	53° 15' 41,364" N	1° 17' 41,657" E
785	53° 15' 41,540" N	1° 17' 41,657" E
786	53° 15' 41,716" N	1° 17' 41,658" E
787	53° 15' 41,892" N	1° 17' 41,660" E
788	53° 15' 42,068" N	1° 17' 41,663" E
789	53° 15' 42,244" N	1° 17' 41,667" E
790	53° 15' 42,420" N	1° 17' 41,673" E
791	53° 15' 42,595" N	1° 17' 41,679" E
792	53° 15' 42,771" N	1° 17' 41,686" E
793	53° 15' 42,947" N	1° 17' 41,694" E
794	53° 15' 43,123" N	1° 17' 41,703" E
795	53° 15' 43,298" N	1° 17' 41,714" E
796	53° 15' 43,474" N	1° 17' 41,725" E
797	53° 15' 43,648" N	1° 17' 41,737" E
798	53° 15' 43,798" N	1° 17' 41,749" E
799	53° 17' 24,066" N	1° 17' 49,680" E
800	53° 17' 49,561" N	1° 17' 29,006" E
801	53° 18' 9,032" N	1° 17' 13,212" E
802	53° 18' 47,802" N	1° 16' 53,972" E
803	53° 18' 47,894" N	1° 16' 53,926" E
804	53° 18' 47,772" N	1° 16' 53,803" E
805	53° 10' 41,118" N	1° 14' 20,621" E

PART 2

Ancillary works

1. Works within the Order limits which have been subject to an environmental assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised development;
- (b) temporary or permanent buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (c) temporary works for the benefit or protection of land or structures affected by the authorised development.

PART 1

Requirements

Time limits

1.—(1) The Dudgeon Extension Project must commence no later than the expiration of seven years beginning with the date this Order comes into force.

(2) The Sheringham Shoal Extension Project must commence no later than the expiration of seven years beginning with the date this Order comes into force.

Detailed offshore design parameters*Wind turbine generator dimensions*

2.—(1) Subject to sub-paragraph (4), wind turbine generators forming part of the authorised project must not:—

- (a) exceed a height of 330 metres when measured from HAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 300 metres;
- (c) be less than 1.05 kilometres from the nearest wind turbine generator in any direction;
- (d) have a distance of less than 30 metres between the lowest point of the rotating blade of the wind turbine generator and HAT;
- (e) exceed 23 wind turbine generators in respect of the Sheringham Shoal Extension Project offshore works; or
- (f) exceed 30 wind turbine generators in respect of the Dudgeon Extension Project offshore works.

(2) The total rotor-swept area within Work No. 1A must not exceed 1.00 square kilometres.

(3) The total rotor-swept area within Work No. 1B must not exceed 1.30 square kilometres.

(4) References to the location of a wind turbine generator are references to the centre point at the base of the wind turbine generator.

Wind turbine generator foundations

3.—(1) Wind turbine generator foundations must be of one or more of the following foundation options: piled monopile, suction bucket monopile, piled jacket, suction bucket jacket or gravity base structure foundation.

(2) No wind turbine generator piled monopile or suction bucket monopile foundation may have a pile diameter exceeding 16 metres.

(3) No wind turbine generator gravity base structure foundation may:—

- (a) have a seabed base plate exceeding 60 metres in diameter; or
- (b) have a gravel footing exceeding 62 metres in diameter.

(4) No wind turbine generator piled jacket or suction bucket jacket foundation may:—

- (a) have more than four legs;
- (b) have more than four piles; or
- (c) have a pile diameter exceeding four metres.

4.—(1) Within Work No. 1A, the wind turbine generator foundations must not have:—

- (a) a total combined seabed footprint (including scour protection) exceeding 483,491 square metres;

- (b) a total combined amount of scour protection exceeding 429,770 square metres; or
 - (c) a total combined volume of scour protection exceeding 1,074,770 cubic metres.
- (2) Within Work No. 1B, the wind turbine generator foundations must not have:—
- (a) a total combined seabed footprint (including scour protection) exceeding 610,726 square metres;
 - (b) a total combined amount of scour protection exceeding 542,867 square metres; or
 - (c) a total combined volume of scour protection exceeding 1,357,168 cubic metres.

Offshore Platform dimensions

5. The dimensions of any offshore substation platform (excluding towers, masts and cranes) must not exceed:—

- (a) 70 metres in length;
- (b) 40 metres in width; or
- (c) 50 metres in height above HAT.

Offshore Platform foundations

6.—(1) Offshore substation platform foundations must be of one or more of the following foundation options: piled jacket or suction bucket jacket.

- (2) No offshore substation platform foundation may:—
- (a) have more than four legs;
 - (b) have more than eight piles;
 - (c) have a pile diameter exceeding 3.5 metres;
 - (d) have a seabed footprint (excluding subsea scour protection) exceeding 707 square metres; or
 - (e) have a seabed footprint (including subsea scour protection) exceeding 4,761 square metres.
- (3) The total amount of scour protection for the offshore substation platform in Work No. 3A or 3C must not exceed 4054 square metres.
- (4) The total volume of scour protection for the offshore substation platform in Work No. 3A or 3C must not exceed 7297 cubic metres.
- (5) The total amount of scour protection for the offshore substation platform in Work No. 3B or 3C must not exceed 4054 square metres.
- (6) The total volume of scour protection for the offshore substation platform in Work No. 3B or 3C must not exceed 7297 cubic metres.

Cables and cable protection

7.—(1) In the event of scenario 1, scenario 2, scenario 3 or scenario 4, within Work No. 2A the in-field cables must not, in total:—

- (a) exceed 36 in number;
- (b) exceed 90 kilometres in length;
- (c) exceed 0 cable crossings;
- (d) have cable protection (including cable crossings) exceeding 4,000 square metres in area; or
- (e) have cable protection (including cable crossings) exceeding 1,000 cubic metres in volume.

(2) In the event of scenario 1, scenario 2, scenario 3 or scenario 4, within Work Nos. 2B the in-field cables must not, in total:—

- (a) exceed 54 in number;

- (b) exceed 135 kilometres in length;
 - (c) exceed seven cable crossings;
 - (d) have cable protection (including cable crossings) exceeding 4,000 square metres in area; or
 - (e) have cable protection (including cable crossings) exceeding 1,000 cubic metres in volume.
- (3) In the event of scenario 1, scenario 2 or scenario 3, within Work Nos. 3A to 5A, the offshore export cables must not, in total:—
- (a) exceed one in number;
 - (b) exceed 40 kilometres in length;
 - (c) exceed four cable crossings;
 - (d) have cable protection (including cable crossings) exceeding 9,504 square metres in area; or
 - (e) have cable protection (including cable crossings) exceeding 6885 cubic metres in volume.
- (4) In the event of scenario 1, scenario 2, scenario 3 within Work Nos. 3B to 5B the offshore export cables must not, in total:—
- (a) exceed one in number;
 - (b) exceed 62 kilometres in length;
 - (c) exceed four cable crossings;
 - (d) have cable protection (including cable crossings) exceeding 9,504 square metres in area; or
 - (e) have cable protection (including cable crossings) exceeding 6885 cubic metres in volume.
- (5) In the event of scenario 1, scenario 2 or scenario 3, within Work Nos. 4B the interlink cables must not, in total:—
- (a) exceed three in number;
 - (b) exceed 66 kilometres in length;
 - (c) exceed six cable crossings;
 - (d) have cable protection (including cable crossings) exceeding 6708 square metres in area; or
 - (e) have cable protection (including cable crossings) exceeding 1896 cubic metres in volume.
- (6) In the event of scenario 4 within Work Nos. 3C to 5C, the offshore export cables must not, in total:—
- (a) exceed two in number;
 - (b) exceed 80 kilometres in length;
 - (c) exceed eight cable crossings;
 - (d) have cable protection (including cable crossings) exceeding 16,008 square metres in area; or
 - (e) have cable protection (including cable crossings) exceeding 12,645 cubic metres in volume.
- (7) In the event of scenario 4, within Work Nos. 4C the interlink cables must not, in total:—
- (a) exceed seven in number;
 - (b) exceed 154 kilometres in length;
 - (c) exceed six cable crossings;

- (d) have cable protection (including cable crossings) exceeding 12,708 square metres in area; or
- (e) have cable protection (including cable crossings) exceeding 3396 cubic metres in volume.

Offshore decommissioning

8.—(1) No Sheringham Shoal Extension Project offshore works may commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2)(a) of the 2004 Act has been submitted to the Secretary of State for approval.

(2) No Dudgeon Extension Project offshore works may commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval.

Scenarios and Phases of authorised development

9.—(1) The Sheringham Shoal Extension Project onshore works must not commence until notification has been submitted to the relevant planning authority as to whether SEL intends to commence scenario 1, scenario 2, scenario 3 or scenario 4.

(2) The Dudgeon Extension Project onshore works must not commence until notification has been submitted to the relevant planning authority as to whether DEL intends to commence scenario 1, scenario 2, scenario 3 or scenario 4.

(3) The notifications required under either sub-paragraph (1) or sub-paragraph (2) must be submitted to the relevant planning authority prior to submission of a written scheme to be submitted for approval under sub-paragraphs (4) or (5).

(4) The Sheringham Shoal Extension Project onshore works must not be commenced until a written scheme setting out (with regards to the relevant scenario notified under sub-paragraph (1)) the phases of construction of the Sheringham Shoal Extension Project onshore works has been submitted to and approved by the relevant planning authority.

(5) The Dudgeon Extension Project onshore works must not be commenced until a written scheme setting out (with regards to the relevant scenario notified under sub-paragraph (2)) the phases of construction of the Dudgeon Extension Project onshore works has been submitted to and approved by the relevant planning authority.

(6) Any subsequent amendments to any written scheme submitted for approval under sub-paragraphs (4) and (5) must be submitted to, and approved by, the relevant planning authority.

(7) Each written scheme submitted for approval under sub-paragraphs (4) and (5) scheme must be implemented as approved. The approved details shall be taken to include any amendment that may subsequently be approved in accordance with sub-paragraph (6).

Detailed design parameters onshore

10.—(1) Construction of Work No. 15A in the event of scenario 1 or scenario 2 must not commence until the details specified under sub-paragraph (4) have been submitted to and approved in writing by the relevant planning authority.

(2) Construction of Work No. 15B in the event of scenario 1 or scenario 2 must not commence until the details specified under sub-paragraph (4) have been submitted to and approved in writing by the relevant planning authority.

(a) Section 105(2) was substituted by section 69(3) of the Energy Act 2008 (c. 32).

(3) Construction of Work Nos. 15C in the event of scenario 3 or scenario 4 must not commence until the details specified under sub-paragraph (4) have been submitted to and approved in writing by the relevant planning authority.

(4) The details required for approval in accordance with either sub-paragraphs (1), (2) or (3) are:—

- (a) layout;
- (b) scale;
- (c) proposed finished ground levels;
- (d) external appearance and materials;
- (e) hard surfacing materials;
- (f) vehicular and pedestrian access and parking areas;
- (g) minor structures, such as furniture, refuse or other storage units, signs and lighting; and
- (h) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports.

(5) The details submitted under sub-paragraphs (1), (2) or (3) and under requirement 14 (fencing and other means of enclosure) must:—

- (a) be in accordance with the design and access statement; and
- (b) have been subject to a design review process carried out by an independent design review panel to the satisfaction of the relevant planning authority and which must consider whether sub-paragraph (5)(a) has been satisfied and make recommendations for design improvements if not.

(6) Work Nos. 15A and 15B in the event of scenario 1 or scenario 2 or Work No.15C in the event of scenario 3 or scenario 4 must be carried out in accordance with the details approved under sub-paragraphs (1), (2) or (3) for each work.

(7) The permanent access road to the onshore Sheringham Shoal Extension Project substation and onshore Dudgeon Extension Project substation in the event of scenario 1 or scenario 2 or to the integrated onshore substation in scenario 3 or scenario 4:—

- (a) must not commence until details of its precise location have been submitted to and approved in writing by the relevant planning authority; and
- (b) must be no more than six metres wide.

(8) The permanent access road to the onshore Sheringham Shoal Extension Project substation and onshore Dudgeon Extension Project substation in the event of scenario 1 or scenario 2 or to the integrated onshore substation in scenario 3 or scenario 4 must be carried out in accordance with the details approved under sub-paragraph (7).

(9) In the event of scenario 1(a) or scenario 1(b), the width of the onshore cable corridor must not exceed 45 metres save in respect of the following:—

- (a) where the onshore cables pass through or adjacent to the FEP phase 2 site, the width of the onshore cable corridor must not exceed 130 metres; and
- (b) where HDD is used to install the cables (other than within or adjacent to the FEP phase 2 site under sub-paragraph (a)), the width of the onshore cable corridor must not exceed 100 metres.

Provision of landscaping

11.—(1) No phase of the onshore works may commence until a written landscape management plan (which accords with the outline landscape management plan) for that phase has been submitted to, and approved by, the relevant planning authority.

(2) Each landscaping scheme must include details of all proposed hard and soft landscaping works, including—

- (a) surveys, assessments and method statements;

- (b) location, number, species, size and planting density of any proposed planting;
- (c) cultivation, treatment of materials and other operations to ensure plant establishment;
- (d) proposed finished ground levels;
- (e) details of existing trees and hedges to be removed and details of existing trees and hedges to be retained, with measures for their protection during the construction period where applicable and the details provided should be in accordance with British Standard 5837:2012 “Trees in relation to design, demolition and construction” and the Hedgerow Regulations 1997; and
- (f) implementation timetables for all landscaping works, including proposals for reinstatement.

(3) A landscape management plan submitted under sub-paragraph (1) may cover one or more phase of the onshore works.

(4) Each landscape management plan must be implemented as approved.

Implementation and maintenance of landscaping

12.—(1) All landscaping works must be carried out in accordance with a landscape management plan approved under requirement 11 (provision of landscaping) and in accordance with the relevant recommendations of appropriate British Standards.

(2) Any tree or shrub planted as part of an approved landscape management plan that, within ten years (save in relation to Work Nos. 18A, 18B, 22A and 22B, for which the relevant period is the operational lifetime of the authorised development) after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the next planting season with a specimen of the same species and size as that originally planted, unless otherwise agreed by the relevant planning authority.

(3) Any landscape management plan submitted under sub-paragraph (1) may cover one or more phase of the onshore works.

Ecological management plan

13.—(1) No phase of the onshore works may commence until a written ecological management plan (which accords with the outline ecological management plan and the relevant recommendations of appropriate British Standards or Industry Guidance) for that phase reflecting the survey results and ecological mitigation, enhancement and biodiversity net gain measures included in the environmental statement has been submitted to and approved by the relevant planning authority in consultation with Natural England and (where works have potential to affect wetland habitat) the Environment Agency.

(2) Pre-commencement site clearance works must only take place in accordance with a specific written ecological management plan for site clearance works (which accords with the relevant details for pre-commencement site clearance works in the outline ecological management plan) has been submitted to and approved by the relevant planning authority.

(3) Any ecological management plan submitted under sub-paragraph (1) may cover one or more phase of the onshore works.

(4) Each ecological management plan must include an implementation timetable and must be carried out as approved.

Fencing and other means of enclosure

14.—(1) No phase of the onshore works may commence until details of all proposed permanent fences, walls or other means of enclosure for that phase have been submitted to and approved by the relevant planning authority.

(2) Any approved permanent fencing in relation to Work Nos. 15A or 15B, or in the event of scenario 3 or scenario 4, 15C must be completed before that work is brought into use.

(3) Permanent fencing, walls and other means of enclosure approved under sub-paragraphs (1) and (2) must be provided and maintained until the onshore works to which they relate are decommissioned in accordance with the onshore decommissioning plan approved under requirement 29 (onshore decommissioning).

Traffic and Transport

15.—(1) No phase of the onshore works may commence until for that phase a construction traffic management plan (which must be in accordance with the outline construction traffic management plan), as appropriate for the relevant phase, has for that phase been submitted to and approved by the relevant planning authority in consultation with Norfolk County Council or in respect of the strategic road network National Highways.

(2) Any plan submitted under sub-paragraph (1) may cover one or more phase of the onshore works.

(3) Each plan approved under sub-paragraph (1) must be implemented upon commencement of the relevant phase of the onshore works.

(4) If any of the accesses identified in the outline construction traffic management plan are required for pre-commencement archaeological investigations, a specific plan for such accesses which must accord with the relevant details set out in the outline construction traffic management plan must be submitted to and approved by the relevant planning authority, in consultation with Norfolk County Council or in respect of the strategic road network National Highways, prior to the construction and use of such accesses. The accesses identified must be constructed and used in accordance with the details contained in the specific plan so approved.

~~(4)~~(5) During construction of the authorised development, the maximum daily vehicle trips set out in Annex A of the outline construction traffic management plan must not be exceeded.

Highway accesses

16.—(1) Construction of any new permanent or temporary means of access to a highway, or alteration, or use of an existing means of access to a highway, must not commence until an access plan for that access has been submitted to and approved by the relevant planning authority in consultation with Norfolk County Council or in respect of the strategic road network National Highways.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures, lighting, signing, safety measures and a maintenance programme relevant to the access it relates to.

(3) The highway accesses (including visibility splays) must be constructed and maintained in accordance with the approved details.

Operational Drainage Strategy

17.—(1) In the event of scenario 1 or scenario 2, each of Work Nos. 15A, 15B, 18A and 18B must not commence until a written plan for drainage during operation of the relevant work, has been submitted to and approved by the relevant planning authority, following consultation with the lead local flood authority and the Environment Agency.

(2) In the event of scenario 3 or scenario 4, Work No. 15C, 18A and 18B must not commence until a written plan for drainage during operation of the relevant work, has been submitted to and approved by the relevant planning authority, following consultation with, the lead local flood authority and the Environment Agency.

(3) Each operational drainage strategy must accord with the principles for the relevant work set out in the outline operational drainage strategy (onshore substation), must include a timetable for implementation, and must include provision for the maintenance of any measures identified.

(4) Each operational drainage strategy must be implemented as approved.

Onshore Archaeology

18.—(1) No phase of the onshore works may commence until a written scheme of archaeological investigation for that phase (which must accord with the outline written scheme of investigation (onshore)) has, after consultation with Norfolk County Council and the statutory historic body, been submitted to and approved by the relevant planning authority.

(2) Each scheme must:—

- (a) set out a pre-construction programme of archaeological evaluation that defines the extent and character of archaeological sites and identifies where subsequent archaeological mitigation (i.e. archaeological excavation or monitoring) are required;
- (b) set out the programme and methodology for site investigation and recording;
- (c) set out the programme for post-excavation assessment, the results of which may inform the scope of analysis;
- (d) provision to be made for analysis of the site investigation and recording;
- (e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- (f) provision to be made for archive deposition of the analysis and records of the site investigation; and
- (g) nominate a competent person or organisation to undertake the works set out in the written scheme of investigation.

(3) Any written scheme of archaeological investigation or archaeological monitoring works submitted under sub-paragraph (1) may cover one or more phase of the onshore works.

(4) Any archaeological investigations must be carried out in accordance with a scheme approved under sub-paragraph (1).

(5) The pre-construction archaeological evaluation, archaeological site investigations, archaeological monitoring and post-excavation assessment for each phase must be completed for that phase in accordance with the programme set out in the relevant written scheme of archaeological investigation and provision made for analysis, publication and dissemination of results and archive deposition secured for that phase.

(6) For the purposes of this requirement 18 only, the definition of “commence” includes intrusive archaeological investigations.

Code of construction practice

19.—(1) No phase of the onshore works may commence until a code of construction practice (which must accord with the outline code of construction practice) for that phase has been submitted to and approved by the relevant planning authority following consultation as appropriate with Norfolk County Council, the Environment Agency, Natural England and, if applicable, the MMO.

(2) Any code of construction practice submitted under sub-paragraph (1) may cover one or more phase of the onshore works.

(3) All construction works for each phase must be undertaken in accordance with the relevant approved code of construction practice.

(4) Pre-commencement screening and fencing works must only take place in accordance with a specific plan for such pre-commencement works which must accord with the relevant details for screening and fencing security set out in the outline code of construction practice, and which has been submitted to and approved by the relevant planning authority.

Construction hours

20.—(1) Construction work for the onshore works must only take place between 0700 hours and 1900 hours Monday to Friday, and 0700 hours to 1300 hours on Saturdays, with no activity on Sundays or bank holidays, except as specified in sub-paragraphs (2) to (4).

(2) Outside the hours specified in sub-paragraph (1), construction work may be undertaken for essential activities including but not limited to:—

- (a) continuous periods of operation that are required as assessed in the environmental statement, such as concrete pouring, drilling, dewatering, cable jointing, pulling cables (including fibre optic cables) through ducts and HDD at three locations only: the A11 (Crossing RDX048); the Cambridge to Norwich Railway Line (Crossing RLX002); and the North Norfolk Railway Line (Crossing RLX001);
- (b) delivery to the onshore works of abnormal loads that may otherwise cause congestion on the local road network;
- (c) works required that may necessitate the temporary closure of roads;
- (d) onshore works at the landfall;
- (e) commissioning or outage works associated with the National Grid substation connection works;
- (f) electrical installation; or
- (g) emergency works.

(3) Outside the hours specified in sub-paragraph (1), construction work may be undertaken for non-intrusive activities including but not limited to:—

- (a) fitting out works within:
 - (i) the onshore HVAC substation buildings comprised within Work Nos. 15A and 15B in the event of scenario 1 or scenario 2; or
 - (ii) the integrated onshore substation building comprised within Work No. 15C in the event of scenario 3 or scenario 4; and
- (b) daily start up or shut down.

(4) Save for emergency works, full details, including but not limited to type of activity, vehicle movements and type, timing and duration and any proposed mitigation, of all essential construction activities under sub-paragraph (2) and undertaken outside of the hours specified in sub-paragraph (1) must be agreed with the relevant planning authority in writing in advance, and must be carried out within the agreed time.

(5) In the event of an emergency, notification of that emergency must be given to the relevant planning authority and the relevant highway authority as soon as reasonably practicable.

(6) For the purposes of this requirement “emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action.

Control of noise during operational phase

21.—(1) In the event of scenario 1 or scenario 2, prior to the commencement of Work No. 15A a noise management plan for those works must be submitted to and approved by the relevant planning authority.

(2) In the event of scenario 1 or scenario 2, prior to the commencement of Work No. 15B a noise management plan for those works must be submitted to and approved by the relevant planning authority.

(3) In the event of scenario 3 or scenario 4, prior to the commencement of Work No. 15C a noise management plan for those works must be submitted to and approved by the relevant planning authority.

(4) Any noise management plan submitted under sub-paragraphs (1), (2) or (3) must set out the particulars of:—

- (a) an assessment of noise from the substation, demonstrating that the rating level of the substation sound does not exceed the background sound level by more than 5 decibels at nearby receptors, subject to context. The rating level, background sound level and context should be determined in accordance with British Standard 4142:2014+A1:2019

‘Methods for rating and assessing industrial and commercial noise’ or an equivalent successor standard;

- (b) the noise attenuation and mitigation measures to be taken to minimise noise resulting from those works, including any noise limits;
- (c) a scheme for monitoring noise levels which must include:—
 - (i) the circumstances under which noise will be monitored;
 - (ii) the locations at which noise will be monitored;
 - (iii) the method of noise measurement (which must be in accordance with British Standard 4142:2014+A1:2019, an equivalent successor standard or other agreed noise measurement methodology appropriate to the circumstances); and
- (d) a complaints procedure.

(5) Any noise management plan approved under sub-paragraphs (1), (2) or (3) must be implemented as approved.

Control of artificial light emissions

22.—(1) In the event of scenario 1 or scenario 2, Work No. 15A must not be brought into operation until a written scheme for the management and mitigation of artificial light emissions during the operation of that work has been submitted to and approved by the relevant planning authority.

(2) In the event of scenario 1 or scenario 2, Work No. 15B must not be brought into operation until a written scheme for the management and mitigation of artificial light emissions during the operation of that work has been submitted to and approved by the relevant planning authority.

(3) In the event of scenario 3 or scenario 4, Work No. 15C must not be brought into operation until a written scheme for the management and mitigation of artificial light emissions during the operation of that work has been submitted to and approved by the relevant planning authority.

(4) Any scheme approved under sub-paragraphs (1), (2) or (3) must be implemented as approved.

European protected species: onshore

23.—(1) No phase of the onshore works may commence until final pre-construction survey work has been carried out to establish whether a European protected species is present on any of the land affected, or likely to be affected, by that phase of the onshore works or in any of the trees to be lopped or felled as part of that phase of the onshore works.

(2) Where a European protected species is shown to be present, the relevant phase of the onshore works must not commence until, after consultation with Natural England and the relevant planning authority, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority or a European protected species licence granted by Natural England.

(3) The onshore works must be carried out in accordance with the approved scheme.

(4) In this requirement “European protected species” has the same meaning as in regulations 42 and 46 of the 2017 Regulations.

Public Rights of Way Strategy

24.—(1) No phase of the onshore works that would affect a public right of way specified in Schedule 4 is to be undertaken until a public rights of way strategy in respect of that phase and in accordance with the outline public rights of way strategy, including the specification for making up of an alternative right of way (where appropriate) has been submitted to and approved by the relevant planning authority in consultation with Norfolk County Council.

(2) Any alternative public rights of way must be implemented in accordance with the approved public rights of way strategy.

Restoration of land used temporarily for construction

25. Subject to article 26 (*temporary use of land for carrying out the authorised project*), any land landward of MLWS within the Order limits that is used temporarily for construction of the onshore works, and not ultimately incorporated in permanent works or approved landscaping, must be reinstated to its former condition, or such condition as the relevant planning authority may approve, as soon as reasonably practicable and in any event within 12 months of completion of the relevant phase of the onshore works, or such other period as the relevant planning authority may approve.

Local skills and employment

26.—(1) No phase of the Sheringham Shoal Extension Project onshore works may commence until a skills and employment plan (which accords with the outline skills and employment plan) has been submitted to and approved in writing by Norfolk County Council.

(2) No phase of the Dudgeon Extension Project onshore works may commence until a skills and employment plan (which accords with the outline skills and employment plan) has been submitted to and approved in writing by Norfolk County Council.

(3) Prior to submission of a skills and employment plan for approval in accordance with sub-paragraph (1) or sub-paragraph (2), the undertaker must consult North Norfolk District Council, Broadland District Council, South Norfolk District Council, Norfolk County Council and the New Anglia Local Enterprise Partnership on the content of the plan.

(4) Each skills and employment plan must be implemented as approved.

Ministry of Defence surveillance operations

27.—(1) No wind turbine generator forming part of the authorised development is permitted to rotate its rotor blades on its horizontal axis until the Secretary of State, having consulted with the Ministry of Defence, confirms satisfaction in writing that appropriate mitigation will be implemented and maintained for the life of the authorised development and that arrangements have been put in place with the Ministry of Defence to ensure that the approved mitigation is implemented.

(2) For the purposes of this requirement:—

- (a) “appropriate mitigation” means measures to prevent or remove any adverse effects which the authorised development will have on the air defence radar(s) at Remote Radar Head (RRH) Neatishead and the Ministry of Defence’s air surveillance and control operations;
- (b) “approved mitigation” means the detailed Radar Mitigation Scheme (RMS) that will set out the appropriate measures and timescales for implementation as agreed with the Ministry of Defence at the time the Secretary of State confirms satisfaction in writing in accordance with sub-paragraph (1); and
- (c) “Ministry of Defence” means the Ministry of Defence as represented by Defence Infrastructure Organisation – Safeguarding, St George’s House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY or any successor body.

(3) The undertaker must thereafter comply with all other obligations contained within the approved mitigation for the life of the authorised development.

Cromer and Claxby Primary Surveillance Radar

28.—(1) No part of any wind turbine generator (excluding foundations) shall be erected as part of the authorised development until a primary radar mitigation scheme agreed in advance with the operator has been submitted to and approved in writing by the Secretary of State in order to avoid the impact of the development on the primary radar of the operator located at Claxby and Cromer and associated air traffic management operations.

(2) No part of any wind turbine generator (excluding foundations) shall be erected until the approved primary radar mitigation scheme has been implemented and then shall thereafter be operated fully in accordance with such approved scheme.

(3) For the purposes of this requirement:—

- (a) “operator” means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act); and
- (b) “primary radar mitigation scheme” or “scheme” means a detailed scheme agreed with the operator which sets out the measures to be taken to avoid at all times the impact of the development on the Claxby and Cromer primary radar and air traffic management operations of the operator.

Onshore decommissioning

29.—(1) Within six months of the permanent cessation of commercial operation of the Sheringham Shoal Extension Project onshore works, an onshore decommissioning plan must be submitted to the relevant planning authority for approval unless otherwise agreed in writing by the relevant planning authority.

(2) Within six months of the permanent cessation of commercial operation of the Dudgeon Extension Project onshore works, an onshore decommissioning plan must be submitted to the relevant planning authority for approval unless otherwise agreed in writing by the relevant planning authority.

(3) The relevant planning authority must provide its decision on any onshore decommissioning plan submitted under sub-paragraphs (1) or (2) within three months of submission of each plan unless otherwise agreed in writing between the relevant planning authority and the undertaker.

(4) Any decommissioning plan approved under this requirement must be implemented as approved.

(5) For the purposes of this requirement:—

“Dudgeon Extension Project onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8B to 14B, all or any part of the scenario 3 integrated onshore works operated by or for the benefit of DEL, Work Nos. 18B to 22B, and any other authorised development associated with those works; or
- (c) in the event of scenario 4, Work Nos. 10B, 11B, 13B, 14B, all or any part of the scenario 4 integrated onshore works operated by or for the benefit of DEL, Work Nos. 18B to 22B, and any other authorised development associated with those works; and

“Sheringham Shoal Extension Project onshore works” means:

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8A to 14A, all or any part of the scenario 3 integrated onshore works operated by or for the benefit of SEL, Work Nos. 18A to 22A and any other authorised development associated with those works; or
- (c) in the event of scenario 4, Work Nos. 10A, 11A, 13A, 14A, all or any part of the scenario 4 integrated onshore works operated by or for the benefit of SEL, Work Nos. 18A to 22A and any other authorised development associated with any of those works.

Notification of generation of power

30.—(1) SEL must notify the relevant planning authority and the MMO upon first generation of power from each phase of the Sheringham Shoal Extension Project no later than seven days after the occurrence of this event.

(2) DEL must notify the relevant planning authority and the MMO upon first generation of power from each phase of the Dudgeon Extension Project no later than seven days after the occurrence of this event.

Amendments to approved details

31.—(1) Where any requirement requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another person (the “approving authority”), the approved details must be taken to include any amendments that may subsequently be approved by the approving authority (after consulting any person that the approving authority is required to consult under the relevant requirement).

(2) The approving authority must not approve an amendment unless it is satisfied that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Contaminated land and groundwater scheme

32.—(1) Pre-commencement remedial work and onshore works in respect of any ground contamination or other adverse ground conditions must only take place in accordance with a scheme to deal with the contamination of any land (including groundwater) that is likely to cause significant harm to persons or pollution of controlled waters or the environment which has been submitted to, and approved by, the relevant planning authority in consultation with the Environment Agency.

(2) Each scheme submitted under sub-paragraph (1) must include an investigation and assessment report, prepared by a specialist consultant to identify the extent of any contamination and the remedial measures to be taken for that stage to render the land fit for its intended purpose, together with a management plan which sets out measures in the event that contamination not previously identified is found to be present and long-term measures with respect to any contaminants remaining on the site.

(3) Such remediation as may be identified in each approved scheme must be carried out in accordance with that approved scheme.

Onshore collaboration

33. In the event of scenario 1(c), scenario 1(d) or scenario 2 SEL and DEL must:—

- (a) before submitting any plan or document required to be submitted for approval under the requirements, provide a copy of the plan or document to the other undertaker to enable the other undertaker to provide comments on the relevant plans and documentation; and
- (b) when submitting any plan or document referred to in sub-paragraph (a) for approval, submit any comments duly received from the other undertaker or a statement confirming that no such comments were received.

Mitigation of effects on pink footed geese

34.—(1) No phase of the onshore works within 20km of the North Norfolk Coast Special Protection Area may commence until a scheme for protection and mitigation measures for pink footed geese has been submitted for approval at least four months prior to any works commencing and been approved by the relevant planning authority in consultation with Natural England.

(4) The scheme of protection and mitigation measures submitted for approval under sub-paragraph (1) must include- (a) details of pre-construction surveys to be undertaken to establish whether any pink footed geese are present on any of the land affected, or likely to be affected, by that phase of the onshore work; (b) details of ongoing monitoring to be undertaken during the phase of the onshore work; and details of the mitigation measures to be undertaken if the pre-

construction or ongoing monitoring identifies the presence of pink footed geese in any of the land affected, or likely to be affected, by that phase of the onshore work.

(5) The relevant phase of the onshore works must be carried out in accordance with any scheme approved under sub-paragraph (1). (4) Sub-paragraph (1) does not apply if the relevant planning authority confirms, after consultation with Natural England, that no scheme of protection and mitigation measures for pink footed geese is required for the relevant phase of the of the onshore works.

Obstacle free zone for navigational safety

35. —(1) No infrastructure of any type included within the offshore works, including wind turbine generators and offshore substation platforms, shall be installed within the area defined by the coordinates as specified below and no part of any wind turbine generator, including its blades, may overfly into the area:

<u>Point ID of the area</u>	<u>Latitude (D°M.MM')</u>	<u>Longitude (D°M.MM')</u>
<u>A (NW corner)</u>	<u>53° 21.1541' N</u>	<u>1° 10.1853' E</u>
<u>B (SW corner)</u>	<u>53° 19.0449' N</u>	<u>1° 12.3327' E</u>
<u>C (NE corner)</u>	<u>53° 21.1558' N</u>	<u>1° 11.8346' E</u>
<u>D (SE corner)</u>	<u>53° 19.5696' N</u>	<u>1° 13.6102' E</u>

PART 2

Approval of matters specified in requirements

Applications made under requirements

1. Where an application has been made to the approving authority for any agreement or approval required pursuant to a requirement included in this Order, the approving authority must give notice to the undertaker of their decision, including the reasons, on the application, within a period of 56 days beginning with:—

- (a) the day immediately following that on which the application is received by the approving authority; or
- (b) such longer period as may be agreed by the undertaker and the approving authority.

Further information

2.—(1) Where an application has been made under paragraph 1 the approving authority has the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) If the approving authority considers further information is needed, and the requirement does not specify that consultation with a requirement consultee is required, it must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement indicates that consultation must take place with a consultee the approving authority must issue the consultation to the requirement consultee within seven days of receipt of the application. Where the consultee requires further information they must notify the approving authority in writing specifying the further information required within 21 days of receipt of the consultation. The approving authority must notify the undertaker in writing specifying any further information requested by the consultee within seven days of receipt of such a request.

(4) In the event that the approving authority does not give such notification as specified in sub-paragraphs (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(5) An approving authority may request further information under sub-paragraph (1) on more than one occasion provided that all such requests are made within the period specified in sub-

paragraphs (2) and (3).

Provision of information by Consultees

3.—(1) Any consultee who receives a consultation under sub-paragraph 2(3) must respond to that request within 28 days from receipt unless either sub-paragraph (2) of this paragraph applies or a longer period is agreed with both the undertaker and the approving authority.

(2) Where any consultee requests further information in accordance with the timescales set out in sub-paragraph 2(3) then they must respond to the consultation within 14 days from the receipt of the further information requested unless a longer period is agreed with both the undertaker and the approving authority.

Fees

4.—(1) Where an application is made to the approving authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (or any regulations replacing the same) is to be paid by the undertaker to the approving authority in accordance with these regulations.

(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of the application being rejected as invalidly made.

Appeal

5.—(1) The undertaker may appeal to the Secretary of State in the event that:—

(a) S.I. 2012/2920.

- (a) the approving authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;
- (b) the approving authority does not give notice of its decision to the undertaker within the time period specified in paragraph 1;
- (c) on receipt of a request for further information under paragraph 2 the undertaker considers that either the whole or part of the specified information requested by the approving authority is not necessary for the consideration of the application; or
- (d) on receipt of any further information requested, the approving authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is;
- (e) not necessary for the consideration of the application.

(2) The appeal process is to be as follows:—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (the “appointed person”) to determine the appeal and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);
- (c) the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within 21 days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within 21 days of receipt of written representations pursuant to sub-paragraph (2)(c); and
- (e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 42 days of the later of:—
 - (i) the deadline for receipt of written representations pursuant to sub-paragraph (2)(c); or
 - (ii) the deadline for the receipt of counter-submissions pursuant to sub-paragraph (2)(d).

(3) The appointment of the person pursuant to sub-paragraph (2)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to consider the appeal, the appointed person must notify the appeal parties in writing specifying the further information required and the date by which the information is to be submitted and the appointed person must make any notification and set the date for the receipt of such further information having regard to the timescales in sub-paragraph (2).

(5) Any further information required under sub-paragraph (4) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties, the relevant planning authority and any consultee required to be consulted pursuant to the requirement the subject of the appeal on the date specified by the appointed person (the “specified date”), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 12 days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (2)(e).

(6) On an appeal under this sub-paragraph, the appointed person may:—

- (a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not).

(7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case and may deal with the application as if it had been made to the appointed person in the first instance.

(9) The decision of the appointed person on an appeal is to be final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(10) If an approval is given by the appointed person pursuant to this article, it is to be deemed to be an approval for the purpose of Schedule 2 as if it had been given by the approving authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the approving authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

SCHEDULE 3

Article 8

Streets subject to street works

<i>(1) Area</i>	<i>(2) Street subject to street works</i>
District of North Norfolk	Approximately 37 metres of THE STREET as shown between points 1a and 1b on sheet 1 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 84 metres of THE STREET as shown between points 1c and 1d on sheet 1 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 51 metres of HOLGATE HILL as shown between points 2a and 2c on sheet 2 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 62 metres of HOLT ROAD as shown between points 2b and 2c on sheet 2 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 106 metres of Private track as shown between points 2c and 2d on sheet 2 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 125 metres of STATION ROAD as shown between points 2e and 2f on sheet 2 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 39 metres of SHERINGHAM ROAD as shown between points 3a and 3b on sheet 3 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 100 metres of Private track as shown between points 3c and 3d on sheet 3 of the streets (to be temporarily stopped up) plan

District of North Norfolk	Approximately 18 metres of SANDY HILL LANE as shown between points 3e and 3f on sheet 3 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 102 metres of Private track as shown between points 4a and 4b on sheet 4 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 122 metres of TRACK as shown between points 4c and 4d on sheet 4 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 30 metres of SANDY HILL LANE as shown between points 4e and 4f on sheet 4 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 112 metres of Private track as shown between points 4g and 4h on sheet 4 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 26 metres of HOLT ROAD as shown between points 5a and 5b on sheet 5 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 119 metres of HOLT ROAD as shown between points 5c and 5d on sheet 5 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 89 metres of THE STREET as shown between points 5e and 5f on sheet 5 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 60 metres of RECTORY ROAD as shown between points 6a and 6b on sheet 6 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 82 metres of NEW ROAD as shown between points 6c and 6d on sheet 6 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 149 metres of MARPLE LANE as shown between points 7a and 7b on sheet 7 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 61 metres of GRESHAM ROAD as shown between points 7c and 7d on sheet 7 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 60 metres of CHURCH LANE as shown between points 7e and 7f on sheet 7 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 89 metres of Private track as shown between points 8a and 8b on sheet 8 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 124 metres of NORTHFIELD LANE as shown between points 9a and 9b on sheet 9 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 111 metres of MATLASKE ROAD as shown between points 9c and 9d on sheet 9 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 60 metres of LITTLE BARNINGHAM ROAD as shown between points 10a and 10b on sheet 10 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 60 metres of SWEETBRIAR LANE as shown between points 10c and 10d on sheet 10 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 96 metres of MATLASKE ROAD as shown between points 10e and 10f on sheet 10 of the streets (to be temporarily stopped up) plan

District of North Norfolk	Approximately 115 metres of MATLASKE ROAD as shown between points 11a and 11b on sheet 11 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 107 metres of MATLASKE ROAD as shown between points 12a and 12b on sheet 12 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 82 metres of Private track as shown between points 13a and 13b on sheet 13 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Approximately 132 metres of AYLSHAM ROAD as shown between points 13c and 13d on sheet 13 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 137 metres of Private track as shown between points 13e and 13f on sheet 13 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 100 metres of SPA LANE as shown between points 13g and 13h on sheet 13 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 103 metres of SPINK'S LANE as shown between points 14a and 14b on sheet 14 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 49 metres of B1149 as shown between points 15a and 15b on sheet 15 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 77 metres of FARM ACCESS TRACK as shown between points 16a and 16b on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 34 metres of HOLT ROAD as shown between points 16c and 16d on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 130 metres of Private track as shown between points 16e and 16f on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 101 metres of THE STREET as shown between points 16g and 16h on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 60 metres of UNNAMED ROAD as shown between points 16i and 16j on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 49 metres of THE STREET as shown between points 16k and 16l on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 169 metres of B1149 as shown between points 17a and 17b on sheet 17 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 60 metres of BIRDS LANE as shown between points 17c and 17d on sheet 17 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 103 metres of FARM ACCESS TRACK as shown between points 17e and 17f on sheet 17 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 106 metres of AYLSHAM ROAD as shown between points 18a and 18b on sheet 18 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 69 metres of OLD FRIENDSHIP LANE as shown between points 18c and 18d on sheet 18 of the streets (to be

District of Broadland	temporarily stopped up) plan Approximately 101 metres of NORWICH ROAD as shown between points 18e and 18f on sheet 18 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 142 metres of REEPHAM ROAD as shown between points 19a and 19b on sheet 19 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 60 metres of CHURCH LANE as shown between points 20a and 20b on sheet 20 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 149 metres of DISUSED AIRFIELD – ACCESS TRACK as shown between points 20c and 20d on sheet 20 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 89 metres of DISUSED AIRFIELD – ACCESS TRACK as shown between points 20e and 20f on sheet 20 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 61 metres of DISUSED AIRFIELD – ACCESS TRACK as shown between points 20g and 20h on sheet 20 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 62 metres of CLAY LANE as shown between points 21a and 21b on sheet 21 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 100 metres of CHURCH LANE as shown between points 21c and 21d on sheet 21 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 100 metres of UPGATE as shown between points 22a and 22b on sheet 22 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 97 metres of RESTRICTED BYWAY – SWANNINGTON RB12 as shown between points 22c and 22d on sheet 22 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 116 metres of REEPHAM ROAD as shown between points 22e and 22f on sheet 22 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 117 metres of PRIVATE TRACK as shown between points 23a and 23b on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 102 metres of MARRIOTT’S WAY as shown between points 23c and 23d on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 65 metres of FELTHORPE ROAD as shown between points 23e and 23f on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 108 metres of OLD FAKENHAM ROAD as shown between points 23g and 23h on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 43 metres of OLD FAKENHAM ROAD as shown between points 23i and 23j on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 135 metres of FAKENHAM ROAD as shown between points 23k and 23l on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 112 metres of Private track as shown between points 23m and 23n on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 34 metres of FAKENHAM ROAD as shown

	between points 23o and 23p on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 120 metres of Private track as shown between points 24a and 24b on sheet 24 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 23 metres of MORTON LANE as shown between points 24c and 24d on sheet 24 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 103 metres of RINGLAND LANE as shown between points 24e and 24f on sheet 24 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 27 metres of CHURCH HILL LANE as shown between points 25a and 25b on sheet 25 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 100 metres of NORWICH WESTERN LINK ROAD as shown between points 25c and 25d on sheet 25 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 60 metres of CHURCH HILL LANE as shown between points 25e and 25f on sheet 25 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 118 metres of THE BROADWAY as shown between points 26a and 26b on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 190 metres of Private track as shown between points 26c and 26d on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 85 metres of Private track as shown between points 26e and 26f on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 104 metres of Private track as shown between points 26h and 26g on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 100 metres of Private track as shown between points 26j and 26i on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 63 metres of FARM ACCESS TRACK as shown between points 26l and 26k on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 115 metres of TAVERHAM ROAD as shown between points 27a and 27b on sheet 27 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 62 metres of Private track as shown between points 27c and 27d on sheet 27 of the streets (to be temporarily stopped up) plan
District of Broadland	Approximately 6 metres of Planned - NCC as shown between points 28a and 28b on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 143 metres of A47 as shown between points 28c and 28d on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 63 metres of A47 as shown between points 28e and 28f on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 117 metres of CHURCH LANE as shown between points 28g and 28h on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 71 metres of CHURCH LANE as shown between points 28i and 28j on sheet 28 of the streets (to be temporarily stopped up) plan

	stopped up) plan
District of South Norfolk	Approximately 60 metres of BROOM LANE as shown between points 28k and 28l on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 110 metres of Private track as shown between points 29a and 29b on sheet 29 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 37 metres of COLTON ROAD as shown between points 29c and 29d on sheet 29 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 100 metres of COLTON ROAD as shown between points 29e and 29f on sheet 29 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 111 metres of CHAPEL STREET as shown between points 30a and 30b on sheet 30 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 187 metres of Private track as shown between points 30c and 30d on sheet 30 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 99 metres of B1108 as shown between points 31a and 31b on sheet 31 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 79 metres of BURDOCK LANE as shown between points 31c and 31d on sheet 31 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 21 metres of BURDOCK LANE as shown between points 31e and 31f on sheet 31 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 60 metres of SKOYLES LANE as shown between points 32a and 32b on sheet 32 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 100 metres of MELTON ROAD as shown between points 33a and 33b on sheet 33 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 111 metres of Private track as shown between points 33c and 33d on sheet 33 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 23 metres of B1172 as shown between points 34a and 34b on sheet 34 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 109 metres of B1172 as shown between points 34c and 34d on sheet 34 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 32 metres of B1172 as shown between points 34e and 34f on sheet 34 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 89 metres of Private track as shown between points 34g and 34h on sheet 34 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 100 metres of A11 as shown between points 35a and 35b on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 65 metres of FARM ACCESS TRACK as shown between points 35c and 35d on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 100 metres of HIGH STREET as shown between points 35e and 35f on sheet 35 of the streets (to be temporarily

District of South Norfolk	stopped up) plan Approximately 30 metres of HIGH STREET as shown between points 35g and 35h on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 102 metres of UNNAMED as shown between points 35i and 35j on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 71 metres of CHURCH ROAD as shown between points 35k and 35l on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 206 metres of HETHERSETT ROAD as shown between points 36a and 36b on sheet 36 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 101 metres of FARM ACCESS TRACK as shown between points 36c and 36d on sheet 36 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 57 metres of HETHERSETT ROAD as shown between points 36e and 36f on sheet 36 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 107 metres of INTWOOD LANE as shown between points 37a and 37b on sheet 37 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 110 metres of MAIN ROAD as shown between points 38a and 38b on sheet 38 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 70 metres of SWARDESTON LANE as shown between points 38c and 38d on sheet 38 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 18 metres of SWARDESTON LANE as shown between points 38e and 38f on sheet 38 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 127 metres of HICKLING LANE as shown between points 39a and 39b on sheet 39 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 115 metres of MANGREEN ROAD as shown between points 40a and 40b on sheet 40 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 186 metres of A140 IPSWICH ROAD as shown between points 40c and 40d on sheet 40 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Approximately 52 metres of A140 IPSWICH ROAD as shown between points 40e and 40f on sheet 40 of the streets (to be temporarily stopped up) plan

SCHEDULE 4

Article 4

Public Rights of Way to be temporarily stopped up

<i>(1) Area</i>	<i>(2) Public rights of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
District of North Norfolk	Footpath reference 1 Weybourne FP7	Approximately 234 metres of Footpath reference 1 Weybourne FP7 shown in orange between points marked 1a and 1b on sheet 1 of the

District of North Norfolk	Footpath reference 4 Weybourne FP6	public rights of way (to be temporarily stopped up) plan Approximately 112 metres of Footpath reference 4 Weybourne FP6 shown in orange between points marked 4a and 4b on sheet 4 of the public rights of way (to be temporarily stopped up) plan
District of North Norfolk	Footpath reference 6 Bodham FP8	Approximately 196 metres of Footpath reference 6 Bodham FP8 shown in orange between points marked 6a to 6f on sheet 6 of the public rights of way (to be temporarily stopped up) plan
District of North Norfolk	Footpath reference 8 Matlask FP1	Approximately 97 metres of Footpath reference 8 Matlask FP1 shown in orange between points marked 8a and 8b on sheet 8 of the public rights of way (to be temporarily stopped up) plan
District of North Norfolk	Footpath reference 9 Plumstead FP11	Approximately 106 metres of Footpath reference 9 Plumstead FP11 shown in orange between points marked 9a and 9b on sheet 9 of the public rights of way (to be temporarily stopped up) plan
District of North Norfolk	Footpath reference 11 Itteringham FP3	Approximately 133 metres of Footpath reference 11 Itteringham FP3 shown in orange between points marked 11a and 11b on sheet 11 of the public rights of way (to be temporarily stopped up) plan
District of North Norfolk	Footpath reference 12i Corpusty FP17	Approximately 62 metres of Footpath reference 12i Corpusty FP17 shown in orange between points marked 12a and 12b on sheet 12 of the public rights of way (to be temporarily stopped up) plan
District of North Norfolk	Footpath reference 12ii Corpusty FP16	Approximately 64 metres of Footpath reference 12ii Corpusty FP16 shown in orange between points marked 12c and 12d on sheet 12 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 14i Oulton FP4	Approximately 121 metres of Footpath reference 14i Oulton FP4 shown in orange between points marked 14a and 14b on sheet 14 of the public rights of way (to be temporarily stopped up) plan

District of Broadland	Footpath reference 14ii Heydon FP2	up) plan Approximately 103 metres of Footpath reference 14ii Heydon FP2 shown in orange between points marked 14c and 14d on sheet 14 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 17 Marriott's Way	Approximately 115 metres of Footpath reference 17 Marriott's Way shown in orange between points marked 17a and 17b on sheet 17 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 18i Cawston FP3	Approximately 101 metres of Footpath reference 18i Cawston FP3 shown in orange between points marked 18a and 18b on sheet 18 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 18ii Cawston FP8	Approximately 87 metres of Footpath reference 18ii Cawston FP8 shown in orange between points marked 18c and 18d on sheet 18 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 18iii Cawston FP7	Approximately 2 metres of Footpath reference 18iii Cawston FP7 shown in orange between points marked 18e and 18f on sheet 18 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 21i Swannington FP4	Approximately 223 metres of Footpath reference 21i Swannington FP4 shown in orange between points marked 21a to 21d on sheet 21 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 21ii Swannington FP6	Approximately 100 metres of Footpath reference 21ii Swannington FP6 shown in orange between points marked 21e and 21f on sheet 21 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 21iii Swannington FP7	Approximately 71 metres of Footpath reference 21iii Swannington FP7 shown in orange between points marked 21g and 21h on sheet 21 of the public rights of way (to be temporarily stopped up) plan

District of Broadland	Footpath reference 22i Swannington FP8	Approximately 123 metres of Footpath reference 22i Swannington FP8 shown in orange between points marked 22a and 22b on sheet 22 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 22ii Swannington FP13	Approximately 101 metres of Footpath reference 22ii Swannington FP13 shown in orange between points marked 22c and 22d on sheet 22 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Restricted Byway reference 22iii Swannington RB12	Approximately 97 metres of Restricted Byway reference 22iii Swannington RB12 shown in purple between points marked 22e and 22f on sheet 22 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Restricted Byway reference 23i Attlebridge RB1	Approximately 149 metres of Restricted Byway reference 23i Attlebridge RB1 shown in purple between points marked 23a and 23b on sheet 23 of the public rights of way (to be temporarily stopped up) plan
District of Broadland	Footpath reference 23ii Marriott's Way	Approximately 102 metres of Footpath reference 23ii Marriott's Way shown in orange between points marked 23c and 23d on sheet 23 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Footpath reference 31 Great Melton FP1	Approximately 81 metres of Footpath reference 31 Great Melton FP1 shown in orange between points marked 31a and 31b on sheet 31 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Footpath reference 35 Ketteringham FP4	Approximately 111 metres of Footpath reference 35 Ketteringham FP4 shown in orange between points marked 35a and 35b on sheet 35 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Footpath reference 37i East Carleton FP4	Approximately 91 metres of Footpath reference 37i East Carleton FP4 shown in orange between points marked 37a and 37b on sheet 37 of the public rights of way (to be temporarily stopped up) plan

District of South Norfolk	Footpath reference 37ii Swardeston FP2	Approximately 102 metres of Footpath reference 37ii Swardeston FP2 shown in orange between points marked 37c and 37d on sheet 37 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Footpath reference 37iii Swardeston FP3	Approximately 78 metres of Footpath reference 37iii Swardeston FP3 shown in orange between points marked 37e and 37f on sheet 37 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Footpath reference 37iv Swardeston FP4	Approximately 60 metres of Footpath reference 37iv Swardeston FP4 shown in orange between points marked 37g and 37h on sheet 37 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Footpath reference 38i Mulbarton FP6	Approximately 65 metres of Footpath reference 38i Mulbarton FP6 shown in orange between points marked 38a and 38b on sheet 38 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Footpath reference 38ii Mulbarton FP7	Approximately 67 metres of Footpath reference 38ii Mulbarton FP7 shown in orange between points marked 38c and 38d on sheet 38 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Footpath reference 38iii Swainsthorpe FP1	Approximately 66 metres of Footpath reference 38iii Swainsthorpe FP1 shown in orange between points marked 38e and 38f on sheet 38 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Byway Open to All Traffic reference 39ii Swainsthorpe BOAT6	Approximately 125 metres of Byway Open to All Traffic reference 39ii Swainsthorpe BOAT6 shown in purple between points marked 39c and 39d on sheet 39 of the public rights of way (to be temporarily stopped up) plan
District of South Norfolk	Bridleway reference 40 Swardeston BR12	Approximately 308 metres of Bridleway reference 40 Swardeston BR12 shown in green between points marked 40a and 40b on sheet 40 of the public rights of way (to be temporarily stopped up) plan

District of South Norfolk	Bridleway reference 40i Stoke Holy Cross BR3	Approximately 402 metres of Bridleway reference 40i Stoke Holy Cross BR3 shown in green between points marked 40c and 40d on sheet 40 of the public rights of way (to be temporarily stopped up) plan
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SCHEDULE 5

Article 10

Streets to be temporarily stopped up

<i>(1) Area</i>	<i>(2) Streets to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
District of North Norfolk	THE STREET	Approximately 37 metres of THE STREET as shown between points 1a and 1b on sheet 1 of the streets (to be temporarily stopped up) plan
District of North Norfolk	THE STREET	Approximately 84 metres of THE STREET as shown between points 1c and 1d on sheet 1 of the streets (to be temporarily stopped up) plan
District of North Norfolk	HOLGATE HILL	Approximately 51 metres of HOLGATE HILL as shown between points 2a and 2c on sheet 2 of the streets (to be temporarily stopped up) plan
District of North Norfolk	HOLT ROAD	Approximately 62 metres of HOLT ROAD as shown between points 2b and 2c on sheet 2 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Private track	Approximately 106 metres of Private track as shown between points 2c and 2d on sheet 2 of the streets (to be temporarily stopped up) plan
District of North Norfolk	STATION ROAD	Approximately 125 metres of STATION ROAD as shown between points 2e and 2f on sheet 2 of the streets (to be temporarily stopped up) plan
District of North Norfolk	SHERINGHAM ROAD	Approximately 39 metres of SHERINGHAM ROAD as shown between points 3a and 3b on sheet 3 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Private track	Approximately 100 metres of Private track as shown between points 3c and 3d on sheet 3 of the streets (to be temporarily stopped up) plan
District of North Norfolk	SANDY HILL LANE	Approximately 18 metres of

District of North Norfolk	Private track	SANDY HILL LANE as shown between points 3e and 3f on sheet 3 of the streets (to be temporarily stopped up) plan Approximately 102 metres of Private track as shown between points 4a and 4b on sheet 4 of the streets (to be temporarily stopped up) plan
District of North Norfolk	TRACK	Approximately 122 metres of TRACK as shown between points 4c and 4d on sheet 4 of the streets (to be temporarily stopped up) plan
District of North Norfolk	SANDY HILL LANE	Approximately 30 metres of SANDY HILL LANE as shown between points 4e and 4f on sheet 4 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Private track	Approximately 112 metres of Private track as shown between points 4g and 4h on sheet 4 of the streets (to be temporarily stopped up) plan
District of North Norfolk	HOLT ROAD	Approximately 26 metres of HOLT ROAD as shown between points 5a and 5b on sheet 5 of the streets (to be temporarily stopped up) plan
District of North Norfolk	HOLT ROAD	Approximately 119 metres of HOLT ROAD as shown between points 5c and 5d on sheet 5 of the streets (to be temporarily stopped up) plan
District of North Norfolk	THE STREET	Approximately 89 metres of THE STREET as shown between points 5e and 5f on sheet 5 of the streets (to be temporarily stopped up) plan
District of North Norfolk	RECTORY ROAD	Approximately 60 metres of RECTORY ROAD as shown between points 6a and 6b on sheet 6 of the streets (to be temporarily stopped up) plan
District of North Norfolk	NEW ROAD	Approximately 82 metres of NEW ROAD as shown between points 6c and 6d on sheet 6 of the streets (to be temporarily stopped up) plan
District of North Norfolk	MARPLE LANE	Approximately 149 metres of MARPLE LANE as shown between points 7a and 7b on sheet 7 of the streets (to be temporarily stopped up) plan

District of North Norfolk	GRESHAM ROAD	Approximately 61 metres of GRESHAM ROAD as shown between points 7c and 7d on sheet 7 of the streets (to be temporarily stopped up) plan
District of North Norfolk	CHURCH LANE	Approximately 60 metres of CHURCH LANE as shown between points 7e and 7f on sheet 7 of the streets (to be temporarily stopped up) plan
District of North Norfolk	Private track	Approximately 89 metres of Private track as shown between points 8a and 8b on sheet 8 of the streets (to be temporarily stopped up) plan
District of North Norfolk	NORTHFIELD LANE	Approximately 124 metres of NORTHFIELD LANE as shown between points 9a and 9b on sheet 9 of the streets (to be temporarily stopped up) plan
District of North Norfolk	MATLASKE ROAD	Approximately 111 metres of MATLASKE ROAD as shown between points 9c and 9d on sheet 9 of the streets (to be temporarily stopped up) plan
District of North Norfolk	LITTLE BARNINGHAM ROAD	Approximately 60 metres of LITTLE BARNINGHAM ROAD as shown between points 10a and 10b on sheet 10 of the streets (to be temporarily stopped up) plan
District of North Norfolk	SWEETBRIAR LANE	Approximately 60 metres of SWEETBRIAR LANE as shown between points 10c and 10d on sheet 10 of the streets (to be temporarily stopped up) plan
District of North Norfolk	MATLASKE ROAD	Approximately 96 metres of MATLASKE ROAD as shown between points 10e and 10f on sheet 10 of the streets (to be temporarily stopped up) plan
District of North Norfolk	MATLASKE ROAD	Approximately 115 metres of MATLASKE ROAD as shown between points 11a and 11b on sheet 11 of the streets (to be temporarily stopped up) plan
District of North Norfolk	MATLASKE ROAD	Approximately 107 metres of MATLASKE ROAD as shown between points 12a and 12b on sheet 12 of the streets (to be temporarily stopped up)

District of North Norfolk	Private track	plan Approximately 82 metres of Private track as shown between points 13a and 13b on sheet 13 of the streets (to be temporarily stopped up) plan
District of North Norfolk	AYLSHAM ROAD	Approximately 132 metres of AYLSHAM ROAD as shown between points 13c and 13d on sheet 13 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 137 metres of Private track as shown between points 13e and 13f on sheet 13 of the streets (to be temporarily stopped up) plan
District of Broadland	SPA LANE	Approximately 100 metres of SPA LANE as shown between points 13g and 13h on sheet 13 of the streets (to be temporarily stopped up) plan
District of Broadland	SPINK'S LANE	Approximately 103 metres of SPINK'S LANE as shown between points 14a and 14b on sheet 14 of the streets (to be temporarily stopped up) plan
District of Broadland	B1149	Approximately 49 metres of B1149 as shown between points 15a and 15b on sheet 15 of the streets (to be temporarily stopped up) plan
District of Broadland	FARM ACCESS TRACK	Approximately 77 metres of FARM ACCESS TRACK as shown between points 16a and 16b on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	HOLT ROAD	Approximately 34 metres of HOLT ROAD as shown between points 16c and 16d on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 130 metres of Private track as shown between points 16e and 16f on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	THE STREET	Approximately 101 metres of THE STREET as shown between points 16g and 16h on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	UNNAMED ROAD	Approximately 60 metres of UNNAMED ROAD as shown between points 16i and 16j on sheet 16 of the streets (to be

District of Broadland	THE STREET	temporarily stopped up) plan Approximately 49 metres of THE STREET as shown between points 16k and 16l on sheet 16 of the streets (to be temporarily stopped up) plan
District of Broadland	B1149	Approximately 169 metres of B1149 as shown between points 17a and 17b on sheet 17 of the streets (to be temporarily stopped up) plan
District of Broadland	BIRDS LANE	Approximately 60 metres of BIRDS LANE as shown between points 17c and 17d on sheet 17 of the streets (to be temporarily stopped up) plan
District of Broadland	FARM ACCESS TRACK	Approximately 103 metres of FARM ACCESS TRACK as shown between points 17e and 17f on sheet 17 of the streets (to be temporarily stopped up) plan
District of Broadland	AYLSHAM ROAD	Approximately 106 metres of AYLSHAM ROAD as shown between points 18a and 18b on sheet 18 of the streets (to be temporarily stopped up) plan
District of Broadland	OLD FRIENDSHIP LANE	Approximately 69 metres of OLD FRIENDSHIP LANE as shown between points 18c and 18d on sheet 18 of the streets (to be temporarily stopped up) plan
District of Broadland	NORWICH ROAD	Approximately 101 metres of NORWICH ROAD as shown between points 18e and 18f on sheet 18 of the streets (to be temporarily stopped up) plan
District of Broadland	REEPHAM ROAD	Approximately 142 metres of REEPHAM ROAD as shown between points 19a and 19b on sheet 19 of the streets (to be temporarily stopped up) plan
District of Broadland	CHURCH LANE	Approximately 60 metres of CHURCH LANE as shown between points 20a and 20b on sheet 20 of the streets (to be temporarily stopped up) plan
District of Broadland	DISUSED AIRFIELD – ACCESS TRACK	Approximately 149 metres of DISUSED AIRFIELD – ACCESS TRACK as shown between points 20c and 20d on sheet 20 of the streets (to be temporarily stopped up) plan
District of Broadland	DISUSED AIRFIELD – ACCESS TRACK	Approximately 89 metres of DISUSED AIRFIELD –

District of Broadland	DISUSED AIRFIELD – ACCESS TRACK	ACCESS TRACK as shown between points 20e and 20f on sheet 20 of the streets (to be temporarily stopped up) plan Approximately 61 metres of DISUSED AIRFIELD – ACCESS Track as shown between points 20g and 20h on sheet 20 of the streets (to be temporarily stopped up) plan
District of Broadland	CLAY LANE	Approximately 62 metres of CLAY LANE as shown between points 21a and 21b on sheet 21 of the streets (to be temporarily stopped up) plan
District of Broadland	CHURCH LANE	Approximately 100 metres of CHURCH LANE as shown between points 21c and 21d on sheet 21 of the streets (to be temporarily stopped up) plan
District of Broadland	UPGATE	Approximately 100 metres of UPGATE as shown between points 22a and 22b on sheet 22 of the streets (to be temporarily stopped up) plan
District of Broadland	RESTRICTED BYWAY – SWANNINGTON RB12	Approximately 97 metres of RESTRICTED BYWAY – SWANNINGTON RB12 as shown between points 22c and 22d on sheet 22 of the streets (to be temporarily stopped up) plan
District of Broadland	REEPHAM ROAD	Approximately 116 metres of REEPHAM ROAD as shown between points 22e and 22f on sheet 22 of the streets (to be temporarily stopped up) plan
District of Broadland	PRIVATE TRACK	Approximately 117 metres of PRIVATE TRACK as shown between points 23a and 23b on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	MARRIOTT’S WAY	Approximately 102 metres of MARRIOTT’S WAY as shown between points 23c and 23d on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	FELTHORPE ROAD	Approximately 65 metres of FELTHORPE ROAD as shown between points 23e and 23f on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	OLD FAKENHAM ROAD	Approximately 108 metres of OLD FAKENHAM ROAD as

District of Broadland	OLD FAKENHAM ROAD	shown between points 23g and 23h on sheet 23 of the streets (to be temporarily stopped up) plan Approximately 43 metres of OLD FAKENHAM ROAD as shown between points 23i and 23j on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	FAKENHAM ROAD	Approximately 135 metres of FAKENHAM ROAD as shown between points 23k and 23l on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 112 metres of Private track as shown between points 23m and 23n on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	FAKENHAM ROAD	Approximately 34 metres of FAKENHAM ROAD as shown between points 23o and 23p on sheet 23 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 120 metres of Private track as shown between points 24a and 24b on sheet 24 of the streets (to be temporarily stopped up) plan
District of Broadland	MORTON LANE	Approximately 23 metres of MORTON LANE as shown between points 24c and 24d on sheet 24 of the streets (to be temporarily stopped up) plan
District of Broadland	RINGLAND LANE	Approximately 103 metres of RINGLAND LANE as shown between points 24e and 24f on sheet 24 of the streets (to be temporarily stopped up) plan
District of Broadland	CHURCH HILL LANE	Approximately 27 metres of CHURCH HILL LANE as shown between points 25a and 25b on sheet 25 of the streets (to be temporarily stopped up) plan
District of Broadland	NORWICH WESTERN LINK ROAD	Approximately 100 metres of NORWICH WESTERN LINK ROAD as shown between points 25c and 25d on sheet 25 of the streets (to be temporarily stopped up) plan
District of Broadland	CHURCH HILL LANE	Approximately 60 metres of CHURCH HILL LANE as

District of Broadland	THE BROADWAY	shown between points 25e and 25f on sheet 25 of the streets (to be temporarily stopped up) plan Approximately 118 metres of THE BROADWAY as shown between points 26a and 26b on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 190 metres of Private track as shown between points 26c and 26d on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 85 metres of Private track as shown between points 26e and 26f on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 104 metres of Private track as shown between points 26h and 26g on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 100 metres of Private track as shown between points 26j and 26i on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	FARM ACCESS TRACK	Approximately 63 metres of FARM ACCESS TRACK as shown between points 26l and 26k on sheet 26 of the streets (to be temporarily stopped up) plan
District of Broadland	TAVERHAM ROAD	Approximately 115 metres of TAVERHAM ROAD as shown between points 27a and 27b on sheet 27 of the streets (to be temporarily stopped up) plan
District of Broadland	Private track	Approximately 62 metres of Private track as shown between points 27c and 27d on sheet 27 of the streets (to be temporarily stopped up) plan
District of Broadland	Planned - NCC	Approximately 6 metres of Planned - NCC as shown between points 28a and 28b on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	A47	Approximately 143 metres of A47 as shown between points 28c and 28d on sheet 28 of the streets (to be temporarily stopped up) plan

District of South Norfolk	A47	Approximately 63 metres of A47 as shown between points 28e and 28f on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	CHURCH LANE	Approximately 117 metres of CHURCH LANE as shown between points 28g and 28h on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	CHURCH LANE	Approximately 71 metres of CHURCH LANE as shown between points 28i and 28j on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	BROOM LANE	Approximately 60 metres of BROOM LANE as shown between points 28k and 28l on sheet 28 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Private track	Approximately 110 metres of Private track as shown between points 29a and 29b on sheet 29 of the streets (to be temporarily stopped up) plan
District of South Norfolk	COLTON ROAD	Approximately 37 metres of COLTON ROAD as shown between points 29c and 29d on sheet 29 of the streets (to be temporarily stopped up) plan
District of South Norfolk	COLTON ROAD	Approximately 100 metres of COLTON ROAD as shown between points 29e and 29f on sheet 29 of the streets (to be temporarily stopped up) plan
District of South Norfolk	CHAPEL STREET	Approximately 111 metres of CHAPEL STREET as shown between points 30a and 30b on sheet 30 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Private track	Approximately 187 metres of Private track as shown between points 30c and 30d on sheet 30 of the streets (to be temporarily stopped up) plan
District of South Norfolk	B1108 ROAD	Approximately 99 metres of B1108 as shown between points 31a and 31b on sheet 31 of the streets (to be temporarily stopped up) plan
District of South Norfolk	BURDOCK LANE	Approximately 79 metres of BURDOCK LANE as shown between points 31c and 31d on sheet 31 of the streets (to be temporarily stopped up) plan
District of South Norfolk	BURDOCK LANE	Approximately 21 metres of

District of South Norfolk	SKOYLES LANE	BURDOCK LANE as shown between points 31e and 31f on sheet 31 of the streets (to be temporarily stopped up) plan Approximately 60 metres of SKOYLES LANE as shown between points 32a and 32b on sheet 32 of the streets (to be temporarily stopped up) plan
District of South Norfolk	MELTON ROAD	Approximately 100 metres of MELTON ROAD as shown between points 33a and 33b on sheet 33 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Private track	Approximately 111 metres of Private track as shown between points 33c and 33d on sheet 33 of the streets (to be temporarily stopped up) plan
District of South Norfolk	B1172	Approximately 23 metres of B1172 as shown between points 34a and 34b on sheet 34 of the streets (to be temporarily stopped up) plan
District of South Norfolk	B1172	Approximately 109 metres of B1172 as shown between points 34c and 34d on sheet 34 of the streets (to be temporarily stopped up) plan
District of South Norfolk	B1172	Approximately 32 metres of B1172 as shown between points 34e and 34f on sheet 34 of the streets (to be temporarily stopped up) plan
District of South Norfolk	Private track	Approximately 89 metres of Private track as shown between points 34g and 34h on sheet 34 of the streets (to be temporarily stopped up) plan
District of South Norfolk	A11	Approximately 100 metres of A11 as shown between points 35a and 35b on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	FARM ACCESS TRACK	Approximately 65 metres of FARM ACCESS TRACK as shown between points 35c and 35d on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	HIGH STREET	Approximately 100 metres of HIGH STREET as shown between points 35e and 35f on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	HIGH STREET	Approximately 30 metres of

District of South Norfolk	UNNAMED	HIGH STREET as shown between points 35g and 35h on sheet 35 of the streets (to be temporarily stopped up) plan Approximately 102 metres of UNNAMED as shown between points 35i and 35j on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	CHURCH ROAD	Approximately 71 metres of CHURCH ROAD as shown between points 35k and 35l on sheet 35 of the streets (to be temporarily stopped up) plan
District of South Norfolk	HETHERSETT ROAD	Approximately 206 metres of HETHERSETT ROAD as shown between points 36a and 36b on sheet 36 of the streets (to be temporarily stopped up) plan
District of South Norfolk	FARM ACCESS TRACK	Approximately 101 metres of FARM ACCESS TRACK as shown between points 36c and 36d on sheet 36 of the streets (to be temporarily stopped up) plan
District of South Norfolk	HETHERSETT ROAD	Approximately 57 metres of HETHERSETT ROAD as shown between points 36e and 36f on sheet 36 of the streets (to be temporarily stopped up) plan
District of South Norfolk	INTWOOD LANE	Approximately 107 metres of INTWOOD LANE as shown between points 37a and 37b on sheet 37 of the streets (to be temporarily stopped up) plan
District of South Norfolk	MAIN ROAD	Approximately 110 metres of MAIN ROAD as shown between points 38a and 38b on sheet 38 of the streets (to be temporarily stopped up) plan
District of South Norfolk	SWARDESTON LANE	Approximately 70 metres of SWARDESTON LANE as shown between points 38c and 38d on sheet 38 of the streets (to be temporarily stopped up) plan
District of South Norfolk	SWARDESTON LANE	Approximately 18 metres of SWARDESTON LANE as shown between points 38e and 38f on sheet 38 of the streets (to be temporarily stopped up) plan
District of South Norfolk	HICKLING LANE	Approximately 127 metres of HICKLING LANE as shown

District of South Norfolk	MANGREEN ROAD	between points 39a and 39b on sheet 39 of the streets (to be temporarily stopped up) plan Approximately 115 metres of MANGREEN ROAD as shown between points 40a and 40b on sheet 40 of the streets (to be temporarily stopped up) plan
District of South Norfolk	A140 IPSWICH ROAD	Approximately 186 metres of A140 IPSWICH ROAD as shown between points 40c and 40d on sheet 40 of the streets (to be temporarily stopped up) plan
District of South Norfolk	A140 IPSWICH ROAD	Approximately 52 metres of A140 IPSWICH ROAD as shown between points 40e and 40f on sheet 40 of the streets (to be temporarily stopped up) plan

SCHEDULE 6

Article 12

Access to works

<i>(1) Area</i>	<i>(2) Description of access</i>
District of North Norfolk	Vehicle access from The Street marked point at ACEW01 on the access to works plan
District of North Norfolk	Vehicle access from The Street marked point at ACC01 on the access to works plan
District of North Norfolk	Vehicle access from The Street marked point at ACEW02 on the access to works plan
District of North Norfolk	Vehicle access from The Street marked point at ACC02 on the access to works plan
District of North Norfolk	Vehicle access from Holt Road marked point at ACC03 on the access to works plan
District of North Norfolk	Vehicle access from Holgate Hill marked point at ACEW03 on the access to works plan
District of North Norfolk	Vehicle access from Holt Road marked point at ACC04 on the access to works plan
District of North Norfolk	Vehicle access from Holgate Hill marked point at ACEW04 on the access to works plan
District of North Norfolk	Vehicle access from Station Road marked point at ACEW05 on the access to works plan
District of North Norfolk	Vehicle access from Sheringham Road marked point at ACC05 on the access to works plan
District of North Norfolk	Vehicle access from Station Road marked point at ACEW06 on the access to works plan
District of North Norfolk	Vehicle access from Sandy Hill Lane marked point at ACEW10a on the access to works plan
District of North Norfolk	Vehicle access from Sandy Hill Lane marked point at ACC07 on the access to works plan
District of North Norfolk	Vehicle access from Sandy Hill Lane marked point at ACEW09 on the access to works plan

District of North Norfolk	Vehicle access from Sandy Hill Lane marked point at ACC09 on the access to works plan
District of North Norfolk	Vehicle access from Holt Road marked point at ACEW10 on the access to works plan
District of North Norfolk	Vehicle access from Holt Road marked point at ACEW11 on the access to works plan
District of North Norfolk	Vehicle access from Holt Road marked point at ACC10 on the access to works plan
District of North Norfolk	Vehicle access from Holt Road marked point at ACC11 on the access to works plan
District of North Norfolk	Vehicle access from The Street marked point at ACEW12 on the access to works plan
District of North Norfolk	Vehicle access from The Street marked point at XOC01 on the access to works plan
District of North Norfolk	Vehicle access from The Street marked point at XOC02 on the access to works plan
District of North Norfolk	Vehicle access from The Street marked point at ACEW13 on the access to works plan
District of North Norfolk	Vehicle access from Rectory Road marked point at ACC12 on the access to works plan
District of North Norfolk	Vehicle access from Rectory Road marked point at ACEW14 on the access to works plan
District of North Norfolk	Vehicle access from Rectory Road marked point at ACC13 on the access to works plan
District of North Norfolk	Vehicle access from New Road marked point at ACEW15 on the access to works plan
District of North Norfolk	Vehicle access from New Road marked point at ACEW16 on the access to works plan
District of North Norfolk	Vehicle access from New Road marked point at XOC03 on the access to works plan
District of North Norfolk	Vehicle access from New Road marked point at XOC04 on the access to works plan
District of North Norfolk	Vehicle access from New Road marked point at ACEW17 on the access to works plan
District of North Norfolk	Vehicle access from Marple Lane marked point at ACEW18 on the access to works plan
District of North Norfolk	Vehicle access from Gresham Road marked point at ACEW19 on the access to works plan
District of North Norfolk	Vehicle access from Gresham Road marked point at XOC05 on the access to works plan
District of North Norfolk	Vehicle access from Gresham Road marked point at XOC06 on the access to works plan
District of North Norfolk	Vehicle access from Gresham Road marked point at ACEW20 on the access to works plan
District of North Norfolk	Vehicle access from Church Lane marked point at ACC14 on the access to works plan
District of North Norfolk	Vehicle access from Church Lane marked point at ACEW21 on the access to works plan
District of North Norfolk	Vehicle access from Church Lane marked point at ACEW22 on the access to works plan
District of North Norfolk	Vehicle access from Church Lane marked point at ACC15 on the access to works plan
District of North Norfolk	Vehicle access from Northfield Lane marked point at ACEW23 on the access to works plan
District of North Norfolk	Vehicle access from Northfield Lane marked point at XOC07 on the access to works plan

	access to works plan
District of North Norfolk	Vehicle access from Northfield Lane marked point at XOC08 on the access to works plan
District of North Norfolk	Vehicle access from Northfield Lane marked point at ACEW24 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACC16 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACEW25 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACEW26 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACC17 on the access to works plan
District of North Norfolk	Vehicle access from Little Barningham Road marked point at ACEW27 on the access to works plan
District of North Norfolk	Vehicle access from Little Barningham Road marked point at XOC09 on the access to works plan
District of North Norfolk	Vehicle access from Little Barningham Road marked point at XOC10 on the access to works plan
District of North Norfolk	Vehicle access from Little Barningham Road marked point at ACEW28 on the access to works plan
District of North Norfolk	Vehicle access from Sweetbriar Lane marked point at XOC11 on the access to works plan
District of North Norfolk	Vehicle access from Sweetbriar Lane marked point at ACEW29 on the access to works plan
District of North Norfolk	Vehicle access from Sweetbriar Lane marked point at XOC12 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACC18 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACC19 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACEW30 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACEW31 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACC20 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACC21 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACEW32 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACC22 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACEW33 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACEW34 on the access to works plan
District of North Norfolk	Vehicle access from Matlaske Road marked point at ACC23 on the access to works plan
District of North Norfolk	Vehicle access from Aylsham Road marked point at ACEW35 on the access to works plan
District of Broadland	Vehicle access from Aylsham Road marked point at ACEW36 on the access to works plan
District of Broadland	Vehicle access from Aylsham Road marked point at ACC24 on the access to works plan

District of Broadland	Vehicle access from Spa Lane marked point at XOC13 on the access to works plan
District of Broadland	Vehicle access from Spa Lane marked point at ACEW37 on the access to works plan
District of Broadland	Vehicle access from Spa Lane marked point at ACEW38 on the access to works plan
District of Broadland	Vehicle access from Spa Lane marked point at XOC14 on the access to works plan
District of Broadland	Vehicle access from Spink's Lane marked point at ACEW39 on the access to works plan
District of Broadland	Vehicle access from Spink's Lane marked point at ACEW40 on the access to works plan
District of Broadland	Vehicle access from B1149 marked point at ACEW41 on the access to works plan
District of Broadland	Vehicle access from B1149 marked point at ACC25 on the access to works plan
District of Broadland	Vehicle access from farm access track marked point at ACEW42 on the access to works plan
District of Broadland	Vehicle access from farm access track marked point at ACC25b on the access to works plan
District of Broadland	Vehicle access from The Street marked point at ACC26 on the access to works plan
District of Broadland	Vehicle access from The Street marked point at ACEW45 on the access to works plan
District of Broadland	Vehicle access from Birds Lane marked point at XOC15 on the access to works plan
District of Broadland	Vehicle access from Birds Lane marked point at ACEW46 on the access to works plan
District of Broadland	Vehicle access from Birds Lane marked point at ACEW47 on the access to works plan
District of Broadland	Vehicle access from Birds Lane marked point at XOC16 on the access to works plan
District of Broadland	Vehicle access from B1149 marked point at ACEW48 on the access to works plan
District of Broadland	Vehicle access from Aylsham Road marked point at ACC27 on the access to works plan
District of Broadland	Vehicle access from Aylsham Road marked point at ACEW49 on the access to works plan
District of Broadland	Vehicle access from Aylsham Road marked point at ACEW50 on the access to works plan
District of Broadland	Vehicle access from Aylsham Road marked point at ACC28 on the access to works plan
District of Broadland	Vehicle access from Old Friendship Lane marked point at XOC17 on the access to works plan
District of Broadland	Vehicle access from Old Friendship Lane marked point at ACEW51 on the access to works plan
District of Broadland	Vehicle access from Old Friendship Lane marked point at XOC18 on the access to works plan
District of Broadland	Vehicle access from Old Friendship Lane marked point at ACEW52 on the access to works plan
District of Broadland	Vehicle access from Norwich Road marked point at XOC19 on the access to works plan
District of Broadland	Vehicle access from Norwich Road marked point at ACEW53 on the access to works plan
District of Broadland	Vehicle access from Norwich Road marked point at XOC20 on the

	access to works plan
District of Broadland	Vehicle access from Norwich Road marked point at ACEW54 on the access to works plan
District of Broadland	Vehicle access from Reepham Road marked point at ACC29 on the access to works plan
District of Broadland	Vehicle access from Reepham Road marked point at ACEW55 on the access to works plan
District of Broadland	Vehicle access from Reepham Road marked point at ACEW56 on the access to works plan
District of Broadland	Vehicle access from Reepham Road marked point at ACC30 on the access to works plan
District of Broadland	Vehicle access from Cawston Road marked point at ACEW57 on the access to works plan
District of Broadland	Vehicle access from Church Lane marked point at XOC21 on the access to works plan
District of Broadland	Vehicle access from Church Lane marked point at ACEW58 on the access to works plan
District of Broadland	Vehicle access from Church Lane marked point at XOC22 on the access to works plan
District of Broadland	Vehicle access from Clay Lane marked point at XOC23 on the access to works plan
District of Broadland	Vehicle access from Clay Lane marked point at ACEW59 on the access to works plan
District of Broadland	Vehicle access from Clay Lane marked point at ACEW60 on the access to works plan
District of Broadland	Vehicle access from Clay Lane marked point at XOC24 on the access to works plan
District of Broadland	Vehicle access from Church Lane marked point at ACEW61 on the access to works plan
District of Broadland	Vehicle access from Church Lane marked point at ACEW115 on the access to works plan
District of Broadland	Vehicle access from School Road marked point at ACEW62 on the access to works plan
District of Broadland	Vehicle access from Upgate marked point at XOC25 on the access to works plan
District of Broadland	Vehicle access from Upgate marked point at XOC26 on the access to works plan
District of Broadland	Vehicle access from School Road marked point at ACEW63 on the access to works plan
District of Broadland	Vehicle access from Reepham Road marked point at ACC31 on the access to works plan
District of Broadland	Vehicle access from Reepham Road marked point at ACEW64 on the access to works plan
District of Broadland	Vehicle access from Reepham Road marked point at ACC32 on the access to works plan
District of Broadland	Vehicle access from Reepham Road marked point at ACEW65 on the access to works plan
District of Broadland	Vehicle access from Felthorpe Road marked point at XOC27 on the access to works plan
District of Broadland	Vehicle access from Felthorpe Road marked point at XOC28 on the access to works plan
District of Broadland	Vehicle access from Felthorpe Road marked point at ACEW66 on the access to works plan
District of Broadland	Vehicle access from Old Fakenham Road marked point at ACC33 on the access to works plan

District of Broadland	Vehicle access from Old Fakenham Road marked point at ACEW67 on the access to works plan
District of Broadland	Vehicle access from Fakenham Road marked point at ACEW68 on the access to works plan
District of Broadland	Vehicle access from Fakenham Road marked point at ACC36 on the access to works plan
District of Broadland	Vehicle access from Fakenham Road marked point at ACEW70 on the access to works plan
District of Broadland	Vehicle access from Morton Lane marked point at ACEW71 on the access to works plan
District of Broadland	Vehicle access from Morton Lane marked point at ACC37 on the access to works plan
District of Broadland	Vehicle access from Ringland Lane marked point at ACEW72 on the access to works plan
District of Broadland	Vehicle access from Ringland Lane marked point at ACC38 on the access to works plan
District of Broadland	Vehicle access from Church Hill Lane marked point at ACEW73 on the access to works plan
District of Broadland	Vehicle access from Church Hill Lane marked point at ACC39 on the access to works plan
District of Broadland	Vehicle access from Church Hill Lane marked point at ACEW74 on the access to works plan
District of Broadland	Vehicle access from Church Hill Lane marked point at ACEW75 on the access to works plan
District of Broadland	Vehicle access from Church Hill Lane marked point at ACC40 on the access to works plan
District of Broadland	Vehicle access from Church Hill Lane marked point at ACC41 on the access to works plan
District of Broadland	Vehicle access from The Broadway marked point at ACEW76 on the access to works plan
District of Broadland	Vehicle access from The Broadway marked point at ACC42 on the access to works plan
District of Broadland	Vehicle access from The Broadway marked point at ACC43 on the access to works plan
District of Broadland	Vehicle access from The Broadway marked point at ACEW77 on the access to works plan
District of Broadland	Vehicle access from Taverham Road marked point at ACEW78 on the access to works plan
District of Broadland	Vehicle access from Taverham Road marked point at ACEW79 on the access to works plan
District of Broadland	Vehicle access from Taverham Road marked point at ACC44 on the access to works plan
District of Broadland	Vehicle access from Taverham Road marked point at ACC45 on the access to works plan
District of South Norfolk	Vehicle access from A47 marked point at ACC46 on the access to works plan
District of South Norfolk	Vehicle access from A47 marked point at ACEW80 on the access to works plan
District of South Norfolk	Vehicle access from A47 marked point at ACC47 on the access to works plan
District of South Norfolk	Vehicle access from Church Lane marked point at ACC48 on the access to works plan
District of South Norfolk	Vehicle access from Church Lane marked point at ACEW82 on the access to works plan
District of South Norfolk	Vehicle access from Church Lane marked point at ACC49 on the

	access to works plan
District of South Norfolk	Vehicle access from Church Lane marked point at ACEW83 on the access to works plan
District of South Norfolk	Vehicle access from Church Lane marked point at ACEW85 on the access to works plan
District of South Norfolk	Vehicle access from Broom Lane marked point at XOC29 on the access to works plan
District of South Norfolk	Vehicle access from Broom Lane marked point at XOC30 on the access to works plan
District of South Norfolk	Vehicle access from Colton Road marked point at ACC50 on the access to works plan
District of South Norfolk	Vehicle access from Colton Road marked point at ACEW86 on the access to works plan
District of South Norfolk	Vehicle access from Colton Road marked point at ACEW87 on the access to works plan
District of South Norfolk	Vehicle access from Colton Road marked point at ACEW88 on the access to works plan
District of South Norfolk	Vehicle access from Colton Road marked point at ACC51 on the access to works plan
District of South Norfolk	Vehicle access from Colton Road marked point at ACC52 on the access to works plan
District of South Norfolk	Vehicle access from Colton Road marked point at ACEW89 on the access to works plan
District of South Norfolk	Vehicle access from Chapel Street marked point at ACEW90 on the access to works plan
District of South Norfolk	Vehicle access from Chapel Street marked point at ACEW91 on the access to works plan
District of South Norfolk	Vehicle access from Chapel Street marked point at ACC53 on the access to works plan
District of South Norfolk	Vehicle access from Chapel Street marked point at ACC54 on the access to works plan
District of South Norfolk	Vehicle access from B1108 marked point at ACEW92 on the access to works plan
District of South Norfolk	Vehicle access from B1108 marked point at ACC55 on the access to works plan
District of South Norfolk	Vehicle access from Burdock Lane marked point at ACEW93 on the access to works plan
District of South Norfolk	Vehicle access from Burdock Lane marked point at ACC56 on the access to works plan
District of South Norfolk	Vehicle access from Burdock Lane marked point at ACC57 on the access to works plan
District of South Norfolk	Vehicle access from Burdock Lane marked point at ACEW94 on the access to works plan
District of South Norfolk	Vehicle access from Skoyles Lane marked point at ACEW95 on the access to works plan
District of South Norfolk	Vehicle access from Skoyles Lane marked point at XOC31 on the access to works plan
District of South Norfolk	Vehicle access from Skoyles Lane marked point at XOC32 on the access to works plan
District of South Norfolk	Vehicle access from Skoyles Lane marked point at ACEW96 on the access to works plan
District of South Norfolk	Vehicle access from B1172 marked point at ACC60 on the access to works plan
District of South Norfolk	Vehicle access from B1172 marked point at ACEW99 on the access to works plan

District of South Norfolk	Vehicle access from B1172 marked point at ACC61 on the access to works plan
District of South Norfolk	Vehicle access from B1172 marked point at ACEW100 on the access to works plan
District of South Norfolk	Vehicle access from Melton Road marked point at ACC58 on the access to works plan
District of South Norfolk	Vehicle access from Melton Road marked point at ACEW97 on the access to works plan
District of South Norfolk	Vehicle access from Melton Road marked point at ACEW98 on the access to works plan
District of South Norfolk	Vehicle access from Melton Road marked point at ACC59 on the access to works plan
District of South Norfolk	Vehicle access from Pockthorpe Road marked point at ACEW117 on the access to works plan
District of South Norfolk	Vehicle access from Melton Road marked point at ACEW118 on the access to works plan
District of South Norfolk	Vehicle access from Low Street marked point at ACEW116 on the access to works plan
District of South Norfolk	Vehicle access from High Street marked point at ACEW101 on the access to works plan
District of South Norfolk	Vehicle access from High Street marked point at ACC62 on the access to works plan
District of South Norfolk	Vehicle access from High Street marked point at ACC63 on the access to works plan
District of South Norfolk	Vehicle access from High Street marked point at ACEW102 on the access to works plan
District of South Norfolk	Vehicle access from Church Road marked point at XOC33 on the access to works plan
District of South Norfolk	Vehicle access from Church Road marked point at XOC34 on the access to works plan
District of South Norfolk	Vehicle access from Hetherset Road marked point at ACEW103 on the access to works plan
District of South Norfolk	Vehicle access from Hetherset Road marked point at ACC64 on the access to works plan
District of South Norfolk	Vehicle access from Hetherset Road marked point at ACEW104 on the access to works plan
District of South Norfolk	Vehicle access from Hetherset Road marked point at ACC65 on the access to works plan
District of South Norfolk	Vehicle access from Hetherset Road marked point at ACC66 on the access to works plan
District of South Norfolk	Vehicle access from Hetherset Road marked point at ACEW105 on the access to works plan
District of South Norfolk	Vehicle access from Intwood Lane marked point at ACEW106 on the access to works plan
District of South Norfolk	Vehicle access from Intwood Lane marked point at XOC35 on the access to works plan
District of South Norfolk	Vehicle access from Intwood Lane marked point at XOC36 on the access to works plan
District of South Norfolk	Vehicle access from Swardeston Lane marked point at ACEW107 on the access to works plan
District of South Norfolk	Vehicle access from Main Road marked point at ACC67 on the access to works plan
District of South Norfolk	Vehicle access from Main Road marked point at ACEW108 on the access to works plan
District of South Norfolk	Vehicle access from Main Road marked point at ACC68 on the

District of South Norfolk	access to works plan Vehicle access from Main Road marked point at ACEW109 on the access to works plan
District of South Norfolk	Vehicle access from Swardeston Lane marked point at XOC37 on the access to works plan
District of South Norfolk	Vehicle access from Swardeston Lane marked point at XOC38 on the access to works plan
District of South Norfolk	Vehicle access from Swardeston Lane marked point at ACEW110 on the access to works plan
District of South Norfolk	Vehicle access from Swardeston Lane marked point at ACEW111 on the access to works plan
District of South Norfolk	Vehicle access from Mangreen Road marked point at ACC73 on the access to works plan
District of South Norfolk	Vehicle access from Mangreen Road marked point at ACEW113 on the access to works plan
District of South Norfolk	Vehicle access from Mangreen Road marked point at ACEW114 on the access to works plan
District of South Norfolk	Vehicle access from A140 Ipswich Road marked point at ACC74 on the access to works plan
District of South Norfolk	Vehicle access from Mangreen Road marked point at ACC76 on the access to works plan

SCHEDULE 7

Article 20

Land in which only new rights, etc. may be acquired

<i>(1)</i> <i>Plot reference number shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
01-001, 01-002, 01-003, 01-004	Work Nos. 7A/B or 7C
01-005, 01-006, 01-007, 01-008, 01-009	Work Nos. 8A/B or 8C
01-012, 01-014, 01-015, 01-016, 01-021, 01-022, 01-023, 01-024, 01-025, 01-026, 01-027, 01-028	Work Nos. 9A/B or 9C
01-017, 01-018, 01-020, 01-035, 01-036, 01-037	Work Nos. 11A/B
01-029, 01-030, 01-034, 01-038, 01-042, 01-044, 02-002, 02-004, 02-005, 02-006, 02-010, 02-011, 02-012, 02-013, 02-015, 03-003, 03-004, 03-008, 03-009, 03-010, 03-011, 04-003, 04-014, 04-015, 04-016, 04-017, 05-004, 05-006, 05-007, 05-009, 05-012, 05-013, 05-015, 05-016, 06-002, 06-003, 06-005, 06-007, 06-008, 07-001, 07-002, 07-003, 07-004, 07-005, 07-006, 07-009, 07-015, 07-016, 07-018, 07-019, 07-021, 08-001, 09-001, 09-003, 09-004, 09-006,	Work Nos. 12A/B or 12C

09-009, 10-001, 10-002, 10-004, 10-005, 10-007, 10-008, 10-010, 10-011, 10-012, 10-013, 10-014, 11-003, 11-004, 11-005, 11-006, 11-007, 11-008, 12-002, 12-003, 12-004, 12-006, 12-007, 12-008, 13-001, 13-003, 13-004, 13-005, 13-006, 13-007, 13-010, 13-013, 13-016, 14-001, 14-003, 14-007, 15-004, 16-001, 16-002, 16-003, 16-009, 16-011, 16-012, 16-015, 16-020, 17-001, 17-002, 17-003, 17-004, 17-005, 17-007, 17-009, 17-011, 17-012, 18-001, 18-003, 18-004, 18-006, 18-007, 18-009, 18-010, 18-011, 18-013, 18-014, 18-015, 18-016, 18-017, 19-001, 19-003, 19-004, 19-005, 19-006, 19-007, 19-010, 20-001, 20-003, 21-001, 21-002, 21-004, 21-005, 21-006, 21-013, 22-001, 22-002, 22-003, 22-008, 22-009, 22-010, 22-011, 23-001, 23-002, 23-003, 23-004, 23-007, 23-012, 23-013, 23-014, 23-017, 23-018, 23-019, 23-020, 23-021, 23-029, 23-030, 23-031, 24-004, 24-005, 24-007, 25-001, 25-006, 25-007, 25-008, 25-017, 26-001, 26-002, 26-004, 26-007, 27-003, 27-004, 27-005, 28-001, 28-002, 28-008, 28-009, 28-010, 28-011, 28-014, 28-015, 28-016, 28-019, 28-021, 28-022, 29-003, 29-004, 29-005, 29-006, 29-007, 29-008, 30-001, 30-002, 30-003, 30-009, 30-010, 30-011, 30-012, 30-013, 30-014, 30-015, 30-016, 30-017, 31-001, 31-002, 31-004, 31-005, 31-007, 31-011, 31-012, 32-001, 32-002, 32-003, 32-006, 33-001, 33-007, 33-008, 33-010, 33-012, 33-013, 33-014, 33-015, 33-016, 33-017, 34-001, 34-002, 34-006, 34-009, 34-010, 35-001, 35-002, 35-003, 35-006, 35-007, 35-010, 35-011, 36-004, 36-006, 36-009, 36-010, 36-011, 37-002, 37-005, 37-006, 38-002, 38-004, 38-005, 38-006, 38-007, 38-014, 38-015, 38-016, 38-

017, 39-001, 39-005, 39-006, 39-010, 39-011	
39-019, 39-020, 39-023, 39- 028, 39-031, 39-032, 39-033	Work Nos. 16A/B or 16C
39-034, 39-035, 39-037	Work Nos. 17A/B or 17C
39-016, 39-020, 39-024, 39- 038, 39-044, 40-004	Work Nos. 19A/B
39-017, 39-023, 39-025, 39- 026, 39-028, 39-029, 39-030, 39-031, 39-032, 39-033	Work Nos. 22A/B

SCHEDULE 8

Article 20

Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph [5(5)] of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants) to the Dudgeon and Sheringham Shoal Extensions Offshore Wind Farm] Development Consent Order 202[•] (the “202[•] Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 5(8) of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants) to the 202[•] Order) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

(a) 1973 c. 26.

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

Application of Part 1 of the 1965 Act

4. Part 1 of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 24 (*modification of Part 1 of the 1965 Act*)) to the acquisition of land under article 18 (*compulsory acquisition of land*), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant, under article 20 (*compulsory acquisition of rights*)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (refusal to convey, failure to make title, etc.);
- (b) paragraph 10(3) of Schedule 1 (conveyance of the land or interest);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 18), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20 (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference

with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 24(4) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

Ref

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Acquisition of Land Act 1981 as applied by article 22 (application of the 1981 Act) of the Dudgeon and Sheringham Shoal Extensions Offshore Wind Farm Development Consent Order 202[•] in respect of the land to which the notice to treat relates.

(2) But see article 23(4) (acquisition of subsoil or airspace only) of the Dudgeon and Sheringham Shoal Extensions Offshore Wind Farm Development Consent Order 202[•] which excludes the acquisition of subsoil or airspace only from this Schedule.

(2) In this Schedule “house”, except in paragraph 10, includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 9

Article 26

Land of which only temporary possession may be taken

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot reference number shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
North Norfolk District Council	01-010, 01-011, 01-013, 01-019	Temporary use (including access) to facilitate construction of Work Nos. 7A/B or 7C, 8A/B or 8C and 9A/B or 9C	Works No. 10A/B
North Norfolk District Council	01-031, 01-032, 01-033, 01-039, 01-040,	Temporary use (including enabling	Works No. 13A/B

	01-041, 01-043, 02-001, 02-003, 02-007, 02-008, 02-009, 02-014, 03-001, 03-002, 03-005, 03-006, 03-007, 04-001, 04-002, 04-004, 04-005, 04-006, 04-007, 04-008, 04-009, 04-010, 04-011, 04-012, 04-013, 05-001, 05-002, 05-003, 05-005, 05-010, 05-011, 05-014, 06-001, 06-004, 06-006, 07-007, 07-008, 07-010, 07-011, 07-012, 07-013, 07-014, 07-017, 07-020, 08-002, 09-002, 09-005, 09-007, 10-003, 10-006, 10-009, 11-001, 11-002, 12-001, 12-005, 13-002	works) for access to construct Work Nos. 7A/B or 7C, 8A/B or 8C, 9A/B or 9C, 10A/B, 11A/B, 12A/B or 12C and 14A/B	
North Norfolk District Council	05-008, 09-008	Temporary use (including storage) for facilitation of construction of Work Nos. 7A/B or 7C, 8A/B or 8C, 9A/B or 9C, 10A/B, 11A/B, 12A/B or 12C and 13A/B	Works Nos. 14A/B
Broadland District Council	13-011, 13-012, 13-014, 13-015, 14-002, 14-004, 14-005, 14-006, 15-001, 16-004, 16-005, 16-006, 16-007, 16-008, 16-010, 16-013, 16-014, 16-016, 16-017, 16-018, 16-019, 17-006, 17-008, 17-010, 18-002, 18-005, 18-008, 19-008, 19-009, 20-002, 21-003, 21-007, 21-008, 21-009, 21-010, 21-011, 21-012, 21-014, 21-015, 21-016, 21-017, 21-018, 21-019, 22-004, 22-005, 22-006, 22-007, 23-005, 23-006, 23-009, 23-010, 23-011, 23-015, 23-016, 23-022, 23-023, 23-024, 23-025, 23-028, 24-001, 24-002, 24-003, 24-	Temporary use (including enabling works) for access to construct Work Nos. 7A/B or 7C, 8A/B or 8C, 9A/B or 9C, 10A/B, 11A/B, 12A/B or 12C and 14A/B	Works Nos. 13A/B

	006, 25-002, 25-003, 25-004, 25-005, 25-009, 25-010, 25-011, 25-012, 25-013, 25-014, 25-015, 25-016, 26-003, 26-005, 26-006, 26-008, 27-001, 27-002, 27-006		
Broadland District Council	13-008, 13-009, 15-002, 15-003, 19-002, 23-008	Temporary use (including storage) for facilitation of construction of Work Nos. 7A/B or 7C, 8A/B or 8C, 9A/B or 9C, 10A/B, 11A/B, 12A/B or 12C and 13A/B	Works Nos. 14A/B
South Norfolk District Council	28-003, 28-004, 28-005, 28-006, 28-007, 28-017, 28-020, 28-023, 28-024, 28-025, 28-026, 28-027, 29-001, 29-002, 30-004, 30-005, 30-006, 30-007, 30-008, 31-003, 31-006, 31-008, 31-009, 31-010, 32-004, 32-005, 33-002, 33-003, 33-004, 33-005, 33-006, 33-009, 33-011, 34-003, 34-004, 34-005, 34-007, 35-004, 35-005, 35-008, 35-009, 36-001, 36-002, 36-003, 36-007, 36-008, 37-001, 37-003, 37-004, 38-001, 38-003, 38-008, 38-009, 38-010, 38-011, 38-012, 38-013	Temporary use (including enabling works) for access to construct Work Nos. 7A/B or 7C, 8A/B or 8C, 9A/B or 9C, 10A/B, 11A/B, 12A/B or 12C and 14A/B	Works Nos. 13A/B
South Norfolk District Council	28-018, 34-008, 36-005	Temporary use (including storage) for facilitation of construction of Work Nos. 7A/B or 7C, 8A/B or 8C, 9A/B or 9C, 10A/B, 11A/B, 12A/B or 12C and 13A/B	Works Nos. 14A/B
South Norfolk District Council	39-027, 39-036, 39-039, 39-040, 39-041, 39-042, 39-043, 40-001, 40-002, 40-003, 40-005, 40-006, 40-007, 40-008, 40-009, 40-010	Temporary use (including access and storage) to facilitate construction of Work Nos. 12A/B or 12C, 15A/B or 15C, 16A/B or 16C, 17A/B or 17C, 18A/B, 19A/B	Works Nos. 20A/B

SCHEDULE 10

Article 31

Marine Licence 1: Sheringham Shoal Extension Project Offshore
Generation – Work Nos. 1A, 2A and 6A or 6C

PART 1

Licensed marine activities

Interpretation

1.—(1) In this marine licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017(a);

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(b);

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this marine licence;

“authorised project” means Work Nos. 1A, 2A and 6A or 6C and the further associated development described in paragraph 3 of Part 1 of this marine licence or any part of that work or development;

“buoy” means any floating device used for navigational purposes or measurement purposes including LiDAR buoys, wave buoys and guard buoys;

“cable” includes cables for the transmission of electricity and fibre-optic cables;

“cable crossing” means the crossing of existing subsea cables and pipelines by the array, inter-array or export cables authorised by the Order and forming part of the authorised project together with physical protection measures including cable protection;

“cable protection” means measures to protect cables forming part of the authorised project from physical damage and exposure due to loss of seabed sediment including, but not limited to, rock placement, mattresses with or without frond devices, protective aprons or coverings, bagged solutions filled with sand, rock, grout or other materials and protective shells;

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction monitoring surveys approved under this marine licence, and “commenced” and “commencement” must be construed accordingly;

“commercial operation” means in relation to any part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

“Cromer Shoal Chalk Beds MCZ” means the Marine Conservation Zone designated by the Secretary of State under the Cromer Shoal Chalk Beds Marine Conservation Zone Designation Order 2016(c);

(a) S.I. 2017/1013.

(b) OJ L 206, 22.9.1992, p.7-50.

(c) M.O. 2016/4.

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL and any successor body to its functions;

“DEL” means Dudgeon Extension Limited, company number 12148301, whose registered office is at 1 Kingdom Street, London W2 6BD;

“DEP North” means the array extension area located to the north of DOW;

“DEP South” means the array extension area located to the south of DOW;

“DOW” means the Dudgeon Offshore Wind Farm;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 38 (*certification of documents and plans, etc.*) of the Order;

“Dudgeon Extension Project” means the Dudgeon Extension Project offshore works and the Dudgeon Extension Project onshore works;

“Dudgeon Extension Project offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1B to 7B and any other authorised development associated with those works; or
- (b) in the event of scenario 4, Work Nos. 1B, 2B, the integrated offshore works and any other authorised development associated with those works;

“Dudgeon Extension Project onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8B to 14B, the scenario 3 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;
- (c) in the event of scenario 4, Work Nos. 10B, 11B, 13B, 14B, the scenario 4 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 38 (*certification of documents and plans, etc.*) of the Order;

“gravity base structure foundation” means a structure principally of steel, concrete, or steel and concrete, which rests on the seabed either due to its own weight with or without added ballast, skirts or other additional fixings, and associated equipment including scour protection, J-tubes, corrosion protection systems, access platforms and equipment and separate topside connection structures or integrated transition pieces;

“HAT” means highest astronomical tide;

“HVAC” means high voltage alternating current;

“in-field cable” means a subsea cable linking two or more offshore structures;

“in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation” means the document certified as the in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation by the Secretary of State under article 38 (*certification of documents and plans, etc.*) of the Order;

“integrated offshore substation platform” means a single offshore substation platform to be constructed and operated for the benefit of both SEL and DEL;

“integrated offshore works” means Work Nos. 3C, 4C, 5C, 6C and 7C;

“interlink cable” means a subsea cable linking two offshore areas;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as J-tubes, corrosion protection systems and access platforms;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“joint bay” means an excavation located at regular intervals along the cable route consisting of a concrete flat base slab constructed beneath the ground to facilitate the jointing together of the cables;

“LAT” means lowest astronomical tide;

“land plans” means the plans certified as the land plans by the Secretary of State under article 38 of the Order;

“layout commitments” means the layout commitments contained within the navigation risk assessment at appendix 13.1 of the environmental statement;

“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” means the body created under the 2009 Act which is responsible for the regulation of this marine licence or any successor of that function and “MMO” must be construed accordingly;

“MCA” means the Maritime and Coastguard Agency, the executive agency of the Department for Transport;

“MCMS” means the Marine Case Management System web portal provided and operated by the MMO;

“MHWS” or “mean high water springs” means the highest level that spring tides reach on average over a period of time;

“MLWS” or “mean low water springs” means the lowest level that spring tides reach on average over a period of time;

“monopile foundation” means a steel pile driven or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“offshore order limits and grid coordinates plan” means the plans certified as the offshore order limits and grid coordinates plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“offshore substation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad, containing—

- (a) electrical equipment required to switch, transform or convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marking and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

“offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A, 1B to 7B and any other authorised development associated with those works;
- (b) in the event of scenario 4, Work Nos. 1A, 1B, 2A, 2B, the integrated offshore works, and any other authorised development associated with those works;

“onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A, 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8A to 14A, 8B to 14B, the scenario 3 integrated onshore works, 18A to 22A, 18B to 22B and any other authorised development associated with those works; or
- (c) in the event of scenario 4, Work Nos. 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A and 18B to 22B, the scenario 4 integrated onshore works and any other authorised development associated with those works;

“Order” means The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 20[];

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the offshore order limits and grid coordinates plans within which the authorised project may be carried out and the grid coordinates for Work Nos. 1A and 2A are set out in paragraph 5 of Part 1 of this marine licence;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline marine traffic monitoring plan” means the document certified as the outline marine traffic monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, flow energy dissipation devices and rock and gravel placement;

“SEL” means Scira Extension Limited, company number 12239260, whose registered office is at 1 Kingdom Street, London W2 6BD;

“scenario 1” means each generating station will be constructed in any one of the following ways:—

- (a) the construction of the Sheringham Shoal Extension Project only where the Dudgeon Extension Project does not proceed to construction;
- (b) the construction of the Dudgeon Extension Project only where the Sheringham Shoal Extension Project does not proceed to construction;
- (c) sequential construction where the Sheringham Shoal Extension Project is constructed first then the Dudgeon Extension Project is constructed second or vice versa; or

(d) concurrent construction of the Sheringham Shoal Extension Project and the Dudgeon Extension Project;

“scenario 2” means a sequential construction scenario in which either the Sheringham Shoal Extension Project is constructed first and SEL installs the ducts for the Dudgeon Extension Project or the Dudgeon Extension Project is constructed first and DEL installs the ducts for the Sheringham Shoal Extension Project;

“scenario 3” means:—

(a) sequential or concurrent construction of Work Nos. 1A to 14A, 18A to 22A, 1B to 14B, 18B to 22B; and

(b) construction of the scenario 3 integrated onshore works;

“scenario 3 integrated onshore works” means Work Nos. 15C to 17C;

“scenario 4” means:—

(a) sequential or concurrent construction of Work Nos. 1A, 1B, 2A, 2B, 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A, 18B to 22B; and

(b) construction of the integrated offshore works and the scenario 4 integrated onshore works;

“scenario 4 integrated onshore works” means 8C, 9C, 12C, 15C, 16C and 17C;

“Sheringham Shoal Extension Project” means the Sheringham Shoal Extension Project onshore works and the Sheringham Shoal Extension Project offshore works;

“Sheringham Shoal Extension Project offshore works” means:—

(a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A and any authorised development associated with those works; or

(b) in the event of scenario 4, Work Nos. 1A, 2A, the integrated offshore works and any other authorised development associated with those works;

“Sheringham Shoal Extension Project onshore works” means:—

(a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A and any other authorised development associated with those works; or

(b) in the event of scenario 3, Work Nos. 8A to 14A, the scenario 3 integrated onshore works, 18A to 22A and any other authorised development associated with those works; or

(c) in the event of scenario 4, Work Nos. 10A, 11A, 13A, 14A, the scenario 4 integrated onshore works, 18A to 22A and any other authorised development associated with any of those works;

“statutory historic body” means Historic England or its successor in function;

“statutory nature conservation body” means an organisation charged by the government with advising on nature conservation matters;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket or monopile foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UKHO” means the United Kingdom Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Scira Extension Limited, company number 12239260, whose registered office is at 1 Kingdom Street, London W2 6BD;

“VHF” means very high frequency;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or

adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, a rotor with three blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation and forming part of the authorised project;

“works plans” means the works plans (offshore) and the works plans (onshore);

“works plans (offshore)” means the plans certified as the works plans (offshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order; and

“works plans (onshore)” means the plans certified as the works plans (onshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order.

(2) In this marine licence, a reference to any statute, order, regulation or similar instrument is a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) In this marine licence, unless otherwise indicated—

(a) all times are Greenwich Mean Time (“GMT”);

(b) all coordinates are latitude and longitude degrees and minutes to two decimal places.

(4) Unless otherwise stated or agreed with the MMO, all submissions, notifications and communications must be sent by the undertaker to the MMO using MCMS. Except where otherwise notified in writing by the relevant organisation, the addresses for correspondence for the purposes of this marine licence Schedule are—

(a) Historic England

Brooklands

24 Brooklands Avenue

Cambridge

CB2 8BU

Tel: 01223 582749

Email: eastofengland@historicengland.org.uk

(b) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle upon Tyne

NE4 7YH

Email: marine.consents@marinemanagement.org.uk

Tel: 0300 123 1032

(c) Marine Management Organisation (local office)

Lowestoft Office

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Email: lowestoft@marinemanagement.org.uk

Tel: 02080266094

- (d) Marine Management Organisation
 Marine Pollution Response Team
 Tel. (during office hours): 0300 200 2024,
 Tel. (outside office hours): 07770 977 825 or 0845 051 8486
 Email: dispersants@marinemangement.org.uk
- (e) Maritime and Coastguard Agency
 UK Technical Services Navigation
 Spring Place
 105 Commercial Road
 Southampton
 SO15 1EG
 Tel: 020 3817 2554
 Tel: 020 3817 2433
- (f) Natural England
 Foss House
 Kings Pool
 1-2 Peasholme Green
 York
 YO1 7PX
 Tel: 0300 060 4911
- (g) Trinity House
 Tower Hill
 London
 EC3N 4DH
 Tel: 020 7481 6900
- (h) United Kingdom Hydrographic Office
 Admiralty Way
 Taunton
 Somerset
 TA1 2DN
 Tel: 01823 337 900

Details of licensed marine activities

2. Subject to the conditions, this marine licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and objects specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works or cable works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this marine licence during pre-construction, construction and operation;
- (e) site clearance and preparation works including debris, boulder clearance and the removal of out of service cables and static fishing equipment; and

- (f) the disposal of up to 322,327 cubic metres of inert material of natural origin within the Order limits produced during construction drilling or seabed preparation for foundation works and cable works and boulder clearance works at disposal site references to be provided to the MMO within the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 1A— in the event of scenario 1, scenario 2, scenario 3 or scenario 4, an offshore wind turbine generating station with a gross electrical output capacity of more than 100 megawatts comprising up to 23 wind turbine generators each fixed to the seabed by piled monopile, suction bucket monopile, piled jacket, suction bucket jacket or gravity base structure foundations;

Work No. 2A—

- (a) in the event of scenario 1, scenario 2, scenario 3 or scenario 4, a network of subsea in-field cables between the wind turbine generators in Work No. 1A including cable protection and one or more cable crossings; and
- (b) in the event of scenario 1, scenario 2 or scenario 3, a network of subsea in-field cables between the wind turbine generators in Work No. 1A and the offshore substation platform in Work No. 3A including cable protection and one or more cable crossings; or
- (c) in the event of scenario 4, a network of subsea in-field cables between the wind turbine generators in Work No. 1A and the integrated offshore substation platform in Work No. 3C including cable protection and one or more cable crossings; and

Work No. 6A— in the event of scenario 1, scenario 2 or scenario 3, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1A, 2A, 3A, 4A and 5A; or

Work No. 6C— in the event of scenario 4, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1A, 1B, 2A, 2B, 3C, 4C and 5C.

In connection with such Work Nos. 1A, 2A and 6A or 6C and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this marine licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 1A and 2A and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching; and
- (d) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project;
- (e) removal of static fishing equipment;
- (f) beacons, fenders and other navigational warning or ship impact protection works;
- (g) disposal of drill arisings in connection with any foundation drilling up to a total of 11,946 cubic metres; and
- (h) temporary deposit and removal of monitoring equipment.

4. The substances and objects authorised for deposit at sea are—

- (a) iron, steel, copper and aluminium;

- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the Order limits during construction drilling or seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for that part of the authorised project comprising Work Nos. 1A and 2A are specified below—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	53° 5' 19,199" N	1° 15' 47,433" E
2	53° 5' 7,813" N	1° 15' 39,929" E
3	53° 5' 20,705" N	1° 14' 48,183" E
4	53° 5' 33,957" N	1° 13' 54,955" E
5	53° 5' 47,202" N	1° 13' 1,718" E
6	53° 5' 47,266" N	1° 13' 1,677" E
7	53° 5' 47,266" N	1° 13' 1,676" E
8	53° 5' 47,540" N	1° 13' 1,498" E
9	53° 5' 47,545" N	1° 13' 1,495" E
10	53° 5' 50,444" N	1° 12' 59,604" E
11	53° 5' 50,506" N	1° 12' 59,565" E
12	53° 6' 19,018" N	1° 12' 40,975" E
13	53° 6' 19,097" N	1° 12' 40,924" E
14	53° 6' 42,962" N	1° 12' 25,364" E
15	53° 6' 43,080" N	1° 12' 25,287" E
16	53° 7' 12,739" N	1° 12' 5,962" E
17	53° 7' 42,397" N	1° 11' 46,630" E
18	53° 7' 49,968" N	1° 11' 41,694" E
19	53° 8' 12,055" N	1° 11' 27,290" E
20	53° 8' 41,711" N	1° 11' 7,942" E
21	53° 8' 41,717" N	1° 11' 7,938" E
22	53° 8' 49,191" N	1° 11' 3,065" E
23	53° 8' 49,206" N	1° 11' 3,056" E
24	53° 8' 57,559" N	1° 10' 57,610" E
25	53° 8' 57,564" N	1° 10' 57,607" E
26	53° 8' 58,833" N	1° 10' 56,779" E
27	53° 8' 58,859" N	1° 10' 56,762" E
28	53° 9' 10,110" N	1° 10' 9,689" E
29	53° 9' 21,357" N	1° 9' 22,609" E
30	53° 9' 32,598" N	1° 8' 35,522" E
31	53° 9' 43,834" N	1° 7' 48,428" E
32	53° 9' 55,065" N	1° 7' 1,328" E
33	53° 10' 6,290" N	1° 6' 14,221" E
34	53° 10' 17,511" N	1° 5' 27,107" E
35	53° 10' 28,726" N	1° 4' 39,986" E
36	53° 10' 46,425" N	1° 3' 19,628" E
37	53° 11' 4,109" N	1° 1' 59,252" E
38	53° 11' 31,621" N	1° 2' 25,520" E
39	53° 11' 59,131" N	1° 2' 51,798" E

40	53° 12' 26,640" N	1° 3' 18,084" E
41	53° 12' 54,148" N	1° 3' 44,380" E
42	53° 13' 21,654" N	1° 4' 10,686" E
43	53° 13' 49,158" N	1° 4' 37,000" E
44	53° 14' 16,661" N	1° 5' 3,324" E
45	53° 14' 44,162" N	1° 5' 29,657" E
46	53° 14' 10,501" N	1° 6' 22,744" E
47	53° 13' 36,833" N	1° 7' 15,807" E
48	53° 13' 3,158" N	1° 8' 8,847" E
49	53° 12' 29,477" N	1° 9' 1,864" E
50	53° 11' 55,788" N	1° 9' 54,857" E
51	53° 11' 22,093" N	1° 10' 47,828" E
52	53° 10' 48,391" N	1° 11' 40,775" E
53	53° 10' 14,683" N	1° 12' 33,700" E
54	53° 7' 19,882" N	1° 17' 7,608" E
55	53° 6' 8,155" N	1° 16' 19,883" E

6. This marine licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence apply only to a transfer not falling within article 5 (benefit of order) of the Order.

8.—(1) With respect to any condition which requires the licensed activities be carried out in accordance with the details, plans or schemes approved under this marine licence, the approved details, plans or schemes are taken to include any amendments that may subsequently be approved in writing by the MMO.

(2) Any amendments to or variations from the approved details, plans or schemes must be in accordance with the principles and assessments set out in the environmental statement and approval of an amendment or variation may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

9. Should the undertaker become aware that any of the information on which the granting of this marine licence was based was materially false or misleading, the undertaker must notify the MMO of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information.

PART 2

Conditions

Design parameters

Wind turbine generators

- 1.—(1) Wind turbine generators forming part of the authorised project must not—
 - (a) exceed a height of 330 metres when measured from HAT to the tip of the vertical blade;
 - (b) exceed a rotor diameter of 300 metres;

- (c) be less than 1.05 kilometres from the nearest wind turbine generator in any direction; or
 - (d) have a distance of less than 30 metres between the lowest point of the rotating blade of the wind turbine generator and HAT;
 - (e) exceed 23 wind turbine generators in respect of the Sheringham Shoal Extension Project offshore works; or
 - (f) exceed 30 wind turbine generators in respect of the Dudgeon Extension Project offshore works.
- (2) The total rotor-swept area within Work No. 1A must not exceed 1.00 square kilometres.
- (3) References to the location of a wind turbine generator are references to the centre point at the base of the wind turbine generator.

Wind turbine generator foundations

2.—(1) Wind turbine generator foundations must be of one or more of the following foundation options: piled monopile, suction bucket monopile, piled jacket, suction bucket jacket or gravity base structure.

- (2) No wind turbine generator piled monopile or suction bucket monopile foundation may—
 - (a) have a pile diameter exceeding 16 metres; or
 - (b) employ a hammer energy during installation exceeding 5,500 kilojoules.
- (3) No wind turbine generator gravity base structure foundation may—
 - (a) have a seabed base plate exceeding 60 metres in diameter; or
 - (b) have a gravel footing exceeding 62 metres in diameter.
- (4) No wind turbine generator piled jacket or suction bucket jacket foundation may—
 - (a) have more than four legs;
 - (b) have more than four piles;
 - (c) have a pile diameter exceeding four metres; or
 - (d) employ a hammer energy during installation exceeding 3,000 kilojoules.
- (5) Within Work No. 1A, the wind turbine generator foundations must not have:
 - (a) a total combined seabed footprint (including scour protection) exceeding 483,491 square metres;
 - (b) a total combined amount of scour protection exceeding 429,770 square metres; or
 - (c) a total combined volume of scour protection exceeding 1,074,425 cubic metres.

Cables and cable crossings

- 3.—(1) Within Work No. 2A, the in-field cables must not, in total—
 - (a) exceed 36 in number;
 - (b) exceed 90 kilometres in length;
 - (c) exceed 0 cable crossings;
 - (d) have cable protection (including cable crossings) exceeding 4,000 square metres in area; or
 - (e) have cable protection (including cable crossings) exceeding 1,000 cubic metres in volume.

Scenarios and Phases of authorised project

4.—(1) The authorised project must not be commenced until a notification has been submitted to the MMO as to whether the undertaker intends to commence scenario 1, scenario 2, scenario 3 or scenario 4.

(2) The notification required under sub-paragraph (1) must be submitted to the MMO prior to submission of the written scheme to be submitted for approval under sub-paragraph (3).

(3) The authorised project must not be commenced until a written scheme setting out (with regards to the relevant scenario notified under sub-paragraph (1)) the phases of construction of the authorised project has been submitted to and approved in writing by the MMO.

(4) Any subsequent amendments to the written scheme submitted for approval under sub-paragraphs (3) must be submitted to, and approved by, the MMO.

(5) The written scheme submitted for approval under sub-paragraphs (3) must be implemented as approved. The approved details shall be taken to include any amendment that may subsequently be approved in accordance with sub-paragraph (4).

Vessels under the undertaker's control

5. The undertaker must issue to operators of vessels under the undertakers control operating within the Order limits a code of conduct to reduce risk of injury to marine mammals.

Extension of time periods

6. Any time period given in this marine licence to either the undertaker or the MMO may be extended with the agreement of the other party, such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 17;
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 17;
- (b) within 28 days of receipt of a copy of this marine licence and any subsequent amendments or revisions to it, those persons referred to in sub-paragraph (1)(a) must confirm receipt of this marine licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 17 are permitted to carry out the licensed activities.

(3) Copies of this marine licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel and at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b).

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised project.

(6) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licensed activity.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details of the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—

- (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data;
- (b) on completion of construction of all offshore activities,
and confirmation of notification must be provided to the MMO within five days.

(8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised project or any part thereof advising of the start date of each of Work Nos. 1A and 2A and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.

(9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations (or otherwise agreed) and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme and monitoring plan approved under condition 13(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify UKHO of:—

- (a) commencement of the licensed activities at least ten working days prior to commencement; and
- (b) completion (within 14 days) of the authorised project or any part thereof
in order that all necessary amendments to nautical charts are made. Copies of all notices must be provided to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised project or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and UKHO.

(12) In case of the exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of Seafish of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, and UKHO within five days.

Aids to navigation

8.—(1) The undertaker must during the whole of the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as Trinity House may from time to time direct.

(2) The undertaker must during the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project keep Trinity House and the MMO informed of progress of the authorised project including—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 13(1)(g) using the reporting system provided by Trinity House.

(4) The undertaker must during the period from commencement of the licensed activities to completion of decommissioning of the authorised project notify Trinity House and the MMO of

any failure of the aids to navigation, and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(11) or condition 7(12) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of Structures

9. Except as otherwise required by Trinity House, the undertaker must paint all structures forming part of the authorised project yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House. Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures grey (colour code RAL 7035).

Aviation safety

10.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by the Air Navigation Order 2016^(a) and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the authorised project, in writing of the following information—

- (a) the date of the commencement of construction of the authorised project;
- (b) the date any wind turbine generators are to be installed;
- (c) the maximum height of any construction equipment or vessels to be used;
- (d) the maximum height of each wind turbine generator to be constructed;
- (e) the latitude and longitude of each wind turbine generator to be constructed;

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised project. Copies of notifications must be provided to the MMO within 5 days.

Chemicals, drilling and debris

11.—(1) Unless otherwise agreed in writing by the MMO, the carriage and use of chemicals in the construction of the authorised project must comply with the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110 percent of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO in writing of the location and quantities of material disposed of each month under this marine licence by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(a) S.I. 2016/765.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost below MHWS, the undertaker must report the loss in writing to the local enforcement office within 24 hours and if the MMO, in consultation with the MCA and Trinity House, reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must, in that event, demonstrate to the MMO that reasonable attempts have been made to locate, remove or move any such material.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 13(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

12. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

Pre-construction plans and documentation

13.—(1) The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO, in consultation with Trinity House, the MCA and UKHO as appropriate—

- (a) a plan prepared in accordance with the layout commitments setting out proposed details of the authorised project, including the:
 - (i) number, dimensions, specification, foundation type(s) and depth for each wind turbine generator, offshore platform and substation;
 - (ii) the grid coordinates of the centre point of the proposed location for each wind turbine generator, platform and substation;
 - (iii) proposed layout of all cables;
 - (iv) location and specification of all other aspects of the authorised project; and
 - (v) any exclusion zones or micro-siting requirements identified pursuant to 13(1)(e)(v) or relating to any benthic habitats of conservation, ecological or economic importance constituting Annex I reef habitats identified as part of surveys undertaken in accordance with condition 18

to ensure conformity with the description of Work No. 1A and 2A and compliance with conditions 1 to 3;

- (b) a construction programme and monitoring plan (which accords with the offshore in principle monitoring plan) which, save in respect information submitted pursuant to subparagraph (b)(iii)(aa), is to be submitted to the MMO at least six months prior to commencement of licensed activities and to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction surveys and monitoring and related reporting in accordance with conditions 18, 19 and 20 to be submitted to the MMO in accordance with the following (unless otherwise agreed in writing with the MMO) —
 - (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed pre-construction monitoring;
 - (bb) at least four months prior to construction, detail on construction monitoring; and
 - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;
 - (iv) an indicative written construction programme for all wind turbine generators and cables including fibre optic cables comprised in the works at Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);
- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
 - (i) cable specification, installation and monitoring to include—
 - (aa) the technical specification of cables below MHWS;
 - (bb) a detailed cable laying plan for the authorised project, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5 percent of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5 percent of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
 - (cc) proposals for monitoring cables including cable protection until the authorised project is decommissioned which includes a risk-based approach to the management of unburied or shallow buried cables;
 - (ii) scour protection and cable protection including details of the need, type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
 - (iii) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph (1)(i);
 - (iv) advisory safe passing distances for vessels around construction sites;
 - (v) contractors;
 - (vi) vessels and vessel transit corridors;
 - (vii) associated ancillary works; and
 - (viii) guard vessels to be employed;

- (d) a project environmental management plan (in accordance with the outline project environmental management plan) covering the period of construction and operation to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised project in relation to all activities carried out;
 - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 4 and to address the interaction of the licensed activities with fishing activities; and
 - (vi) procedures, which must be adopted within vessel transit corridors to minimise disturbance to red-throated diver during the period 1 November to 31 March (inclusive), which must be in accordance with the best practice protocol for minimising disturbance to red throated diver;
 - (vii) a code of conduct for vessel operators to reduce risk of injury to mammals;
- (e) an archaeological written scheme of investigation in relation to the offshore Order limits seaward of MHWS, which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
 - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS (‘Online Access to the Index of archaeological investigations’) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;
- (f) an offshore operations and maintenance plan (in accordance with the outline offshore operations and maintenance plan), to be submitted to the MMO at least six months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;
- (g) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House specifying how the undertaker will ensure compliance

with condition 8 from the commencement of construction of the authorised project to the completion of decommissioning;

- (h) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies, to be submitted to the MMO at least six months prior to commencement of licensed activities;
- (i) a mitigation scheme for any benthic habitats of conservation, ecological and/or economic importance constituting Annex I reef habitats identified by the survey referred to in condition 18(4)(a) and in accordance with the offshore in principle monitoring plan;
- (j) an ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances to be submitted to the MMO at least six months prior to commencement of licensed activities; and
- (k) a navigation management plan to manage crew transfer vessels (including daughter craft) during the construction and operation of the authorised project.

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline written scheme of investigation (offshore)) which has been submitted to and approved by the MMO.

Site Integrity Plan

14.—(1) No piling activities can take place until a Site Integrity Plan (“SIP”), which accords with the principles set out in the in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (“SNS SAC”) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted in writing to the MMO no later than six months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the preconstruction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.

15.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 13 must be submitted in writing for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The MMO must determine an application for approval made under conditions 13 and 14 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(3) The licensed activities must be carried out in accordance with the plans, protocols, statements, schemes and details approved under conditions 13 and 14, unless otherwise agreed in writing by the MMO.

Offshore safety management

16. No part of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it) and its annexes.

Reporting of engaged agents, contractors and vessels

17. —(1) The undertaker must provide the following information in writing to the MMO—

- (a) the name, function, company number (if applicable), registered or head office address (as appropriate) of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) The undertaker must notify the MMO in writing of any vessel being used to carry on any licensed activity listed in this marine licence on behalf of the undertaker. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity. Notification must include the master’s name, vessel type, vessel IMO number and vessel owner or operating company

(3) Any changes to the supplied details must be notified to the MMO in writing at least 24 hours before the agent, contractor or vessel engages in the licensed activities.

Pre-construction monitoring and surveys

18. —(1) The undertaker must, in discharging condition 22(1)(b), submit a monitoring plan or plans in accordance with the offshore in principle monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body, which must contain details of proposed monitoring and surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report.

(2) The survey proposals submitted under sub-paragraph (1) must be in general accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The baseline report proposals submitted under sub-paragraph (1) must ensure that the outcome of the agreed surveys, together with existing data and reports, are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(4) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats in the parts of the Order limits in which it is proposed to carry out construction works;

- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works;
- (c) undertake any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 13(1)(j); and
- (d) undertake or contribute to any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 13(1)(h).

(5) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Construction monitoring and surveys

19.—(1) The undertaker must, in discharging condition 13(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring and surveys, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(3) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) The results of the initial noise measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the reasonable opinion of the MMO in consultation with the relevant statutory nature conservation body, the assessment shows significantly different impacts to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(5) The undertaker must carry out the surveys specified in the construction monitoring plan in accordance with that plan, including any further noise monitoring required in writing by the MMO under sub-paragraph (4), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(6) Construction monitoring must include vessel traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring at the end of each year of the construction period to the MMO, MCA and Trinity House.

(7) In the event that piled foundations are proposed to be used, the details submitted in accordance with the marine mammal mitigation protocol must include proposals for monitoring marine mammals.

Post-construction monitoring and surveys

20.—(1) The undertaker must, in discharging condition 13(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with relevant statutory nature conservation bodies of proposed post-construction monitoring and surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results.

(2) The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed in writing with the MMO, have due regard to, but not be limited to, the need to—

- (a) undertake an appropriate survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) undertake, within 12 months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected;
- (c) undertake any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 13(1)(j);
- (d) undertake post-construction traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring to the MMO, MCA and Trinity House; and
- (e) undertake or contribute to any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 13(1)(h).

(4) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(5) Following installation of cables, the cable monitoring plan required under condition 13(1)(c) must be updated with the results of the post installation surveys. The plan must be implemented until the authorised scheme is decommissioned and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

(6) In the event that the reports provided to the MMO under sub-paragraph (4) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with the MMO in writing and implemented as agreed.

~~(6)~~(7) In the event that the reports provided to the MMO under sub-paragraph (4) identify that there are significant adverse effects post-mitigation, the Applicant shall notify the MMO and the relevant ANCBs of this in writing with a view to agreeing to a course of adaptive management/mitigation to reduce such effects. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent. Any such agreed or approved adaptive management/mitigation should be implemented in full to a timetable first agreed in writing with the MMO.

Reporting of scour and cable protection

21.—(1) Not more than four months following completion of the construction of the authorised project, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the authorised project.

(2) The report must include the following information—

- (a) the location of cable protection and scour protection;
- (b) the volume of cable protection and scour protection; and
- (c) any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker.

Completion of construction

- (a) —(1) The undertaker must submit a close out report to the MMO, the MCA, Trinity House, UKHO and the relevant statutory nature conservation body within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—the final number of installed turbine generators;
 - (b) the installed wind turbine generator parameters;
 - (c) as built plans;
 - (d) latitude and longitude coordinates of the centre point of the location for each wind turbine generator and offshore platform, substation and booster station, provided as Geographical Information System data referenced to WGS84 datum; and
 - (e) latitude and longitude coordinates of the in-field cables, provided as Geographical Information System data referenced to WGS84 datum.
- (2) Following completion of construction, no further construction activities can be undertaken under this marine licence.

Sediment Sampling

22. —(1) The undertaker must submit a sample plan request in writing to the MMO for written approval of a sample plan.
- (2) The sample plan request must be made—
- (a) or capital dredging, at least six months prior to the commencement of any capital dredging; or
 - (b) for maintenance dredging, at least six months prior to the end of every third year from the date of the previous sediment sample analysis.
- (3) The sample plan request must include details of—
- (a) the volume of material to be dredged;
 - (b) the location of the area to be dredged;
 - (c) details of the material type proposed for dredging;
 - (d) the type and dredging methodology (including whether it is a capital or maintenance dredge, depth of material to be dredged and proposed programme for the dredging activities); and
 - (e) the location and depth of any supporting samples.
- (4) Unless otherwise agreed by the MMO, the undertaker must undertake the sampling in accordance with the approved sample plan.

Collaboration

23. —(1) Prior to submission of plans and documentation required to be submitted to the MMO for approval in accordance with conditions 13 and 14, the undertaker must provide a copy of the relevant plans and documentation to DEL to enable DEL to provide any comments on the plans and documentation to the undertaker.
- (2) The plans and documentation submitted to the MMO for approval in accordance with conditions 13 and 14 must be accompanied by any comments received by the undertaker from DEL in accordance with sub-paragraph (1) or a statement from the undertaker confirming that no such comments were received.

Obstacle free zone for navigational safety

25. —(1) No infrastructure of any type included within the offshore works, including wind turbine generators and offshore substation platforms, shall be installed within the area defined by the coordinates as specified below and no part of any wind turbine generator, including its blades, may overfly into the area:

<u>Point ID of the area</u>	<u>Latitude (D°M.MM')</u>	<u>Longitude (D°M.MM')</u>
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<u>A (NW corner)</u>	<u>53° 21.1541' N</u>	<u>1° 10.1853' E</u>
<u>B (SW corner)</u>	<u>53° 19.0449' N</u>	<u>1° 12.3327' E</u>
<u>C (NE corner)</u>	<u>53° 21.1558' N</u>	<u>1° 11.8346' E</u>
<u>D (SE corner)</u>	<u>53° 19.5696' N</u>	<u>1° 13.6102' E</u>

Marine Licence 2: Dudgeon Extension Project Offshore Generation –
Work No. 1B, 2B and Work No. 6B or 6C

PART 1

Licensed marine activities

Interpretation

1.—(1) In this marine licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this marine licence;

“authorised project” means Work No. 1B, 2B and Work No. 6B or 6C and the further associated development described in paragraph 3 of Part 1 of this marine licence or any part of that work or development;

“buoy” means any floating device used for navigational purposes or measurement purposes including LiDAR buoys, wave buoys and guard buoys;

“cable” includes cables for the transmission of electricity and fibre-optic cables;

“cable crossing” means the crossing of existing subsea cables and pipelines by the array, inter-array or export cables authorised by the Order and forming part of the authorised project together with physical protection measures including cable protection;

“cable protection” means measures to protect cables forming part of the authorised project from physical damage and exposure due to loss of seabed sediment including, but not limited to, rock placement, mattresses with or without frond devices, protective aprons or coverings, bagged solutions filled with sand, rock, grout or other materials and protective shells;

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction monitoring surveys approved under this marine licence, and “commenced” and “commencement” must be construed accordingly;

“commercial operation” means in relation to any part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

“Cromer Shoal Chalk Beds MCZ” means the Marine Conservation Zone designated by the Secretary of State under the Cromer Shoal Chalk Beds Marine Conservation Zone Designation Order 2016;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL and any successor body to its functions;

“DEL” means Dudgeon Extension Limited, company number 12148301, whose registered office is at 1 Kingdom Street, London W2 6BD;

“DEP North” means the array extension area located to the north of DOW;

“DEP South” means the array extension area located to the south of DOW;

“DOW” means the Dudgeon Offshore Wind Farm;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“Dudgeon Extension Project” means the Dudgeon Extension Project offshore works and the Dudgeon Extension Project onshore works;

“Dudgeon Extension Project offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1B to 7B and any other authorised development associated with those works; or
- (b) in the event of scenario 4, Work Nos. 1B, 2B, the integrated offshore works and any other authorised development associated with those works;

“Dudgeon Extension Project onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8B to 14B, the scenario 3 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;
- (c) in the event of scenario 4, Work Nos. 10B, 11B, 13B, 14B, the scenario 4 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“gravity base structure foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast, skirts or other additional fixings, and associated equipment including scour protection, J-tubes, corrosion protection systems, access platforms and equipment and separate topside connection structures or integrated transition pieces;

“HAT” means highest astronomical tide;

“HVAC” means high voltage alternating current;

“in-field cable” means a subsea cable linking two or more offshore structures;

“in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation” means the document certified as the in-principle Site Integrity Plan for the Southern North Sea Special Area of Conservation by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“integrated offshore substation platform” means a single offshore substation platform to be constructed and operated for the benefit of both SEL and DEL;

“integrated offshore works” means Work Nos. 3C, 4C, 5C, 6C and 7C;

“interlink cable” means a subsea cable linking two offshore areas;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as J-tubes, corrosion protection systems and access platforms;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“joint bay” means an excavation located at regular intervals along the cable route consisting of a concrete flat base slab constructed beneath the ground to facilitate the jointing together of the cables;

“LAT” means lowest astronomical tide;

“land plans” means the plans certified as the land plans by the Secretary of State under article 38 of the Order;

“layout commitments” means the layout commitments contained within the navigation risk assessment at appendix 13.1 of the environmental statement;

“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” means the body created under the 2009 Act which is responsible for the regulation of this marine licence or any successor of that function and “MMO” must be construed accordingly;

“MCA” means the Maritime and Coastguard Agency, the executive agency of the Department for Transport;

“MCMS” means the Marine Case Management System web portal provided and operated by the MMO;

“MHWS” or “mean high water springs” means the highest level that spring tides reach on average over a period of time;

“MLWS” or “mean low water springs” means the lowest level that spring tides reach on average over a period of time;

“monopile foundation” means a steel pile driven or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“offshore order limits and grid coordinates plan” means the plans certified as the offshore order limits and grid coordinates plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“offshore substation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad, containing—

- (a) electrical equipment required to switch, transform or convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marking and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

“offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A, 1B to 7B and any other authorised development associated with those works;
- (b) in the event of scenario 4, Work Nos. 1A, 1B, 2A, 2B, the integrated offshore works, and any other authorised development associated with those works;

“onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A, 8B to 22B and any other authorised development associated with those works; or

- (b) in the event of scenario 3, Work Nos. 8A to 14A, 8B to 14B, the scenario 3 integrated onshore works, 18A to 22A, 18B to 22B and any other authorised development associated with those works; or
- (c) in the event of scenario 4, Work Nos. 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A and 18B to 22B, the scenario 4 integrated onshore works and any other authorised development associated with those works;

“Order” means The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 20[];

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the offshore order limits and grid coordinates plans within which the authorised project may be carried out and the grid coordinates for Work Nos. 1B and 2B are set out in paragraph 5 of Part 1 of this marine licence;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline marine traffic monitoring plan” means the document certified as the outline marine traffic monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, flow energy dissipation devices and rock and gravel placement;

“SEL” means Scira Extension Limited, company number 12239260, whose registered office is at 1 Kingdom Street, London W2 6BD;

“scenario 1” means each generating station will be constructed in any one of the following ways:—

- (a) the construction of the Sheringham Shoal Extension Project only where the Dudgeon Extension Project does not proceed to construction;
- (b) the construction of the Dudgeon Extension Project only where the Sheringham Shoal Extension Project does not proceed to construction;
- (c) sequential construction where the Sheringham Shoal Extension Project is constructed first then the Dudgeon Extension Project is constructed second or vice versa; or
- (d) concurrent construction of the Sheringham Shoal Extension Project and the Dudgeon Extension Project;

“scenario 2” means a sequential construction scenario in which either the Sheringham Shoal Extension Project is constructed first and SEL installs the ducts for the Dudgeon Extension Project or the Dudgeon Extension Project is constructed first and DEL installs the ducts for the Sheringham Shoal Extension Project;

“scenario 3” means:—

- (a) sequential or concurrent construction of Work Nos. 1A to 14A, 18A to 22A 1B to 14B, 18B to 22B; and

- (b) construction of the scenario 3 integrated onshore works;
- “scenario 3 integrated onshore works” means Work Nos. 15C to 17C;
- “scenario 4” means:—
- (a) sequential or concurrent construction of Work Nos. 1A, 1B, 2A, 2B, 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A, 18B to 22B; and
- (b) construction of the integrated offshore works and the scenario 4 integrated onshore works;
- “scenario 4 integrated onshore works” means 8C, 9C, 12C, 15C, 16C and 17C;
- “Sheringham Shoal Extension Project” means the Sheringham Shoal Extension Project onshore works and the Sheringham Shoal Extension Project offshore works;
- “Sheringham Shoal Extension Project offshore works” means:—
- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A and any authorised development associated with those works; or
- (b) in the event of scenario 4, Work Nos. 1A, 2A, the integrated offshore works and any other authorised development associated with those works;
- “Sheringham Shoal Extension Project onshore works” means:—
- (a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8A to 14A, the scenario 3 integrated onshore works, 18A to 22A and any other authorised development associated with those works; or
- (c) in the event of scenario 4, Work Nos. 10A, 11A, 13A, 14A, the scenario 4 integrated onshore works, 18A to 22A and any other authorised development associated with any of those works;
- “statutory historic body” means Historic England or its successor in function;
- “statutory nature conservation body” means an organisation charged by the government with advising on nature conservation matters;
- “suction bucket” means a steel cylindrical structure attached to the legs of a jacket or monopile foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;
- “Trinity House” means the Corporation of Trinity House of Deptford Strond;
- “UKHO” means the United Kingdom Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;
- “undertaker” means Dudgeon Extension Limited, company number 12148301, whose registered office is at 1 Kingdom Street, London W2 6BD;
- “VHF” means very high frequency;
- “vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;
- “wind turbine generator” means a structure comprising a tower, a rotor with three blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation and forming part of the authorised project;
- “works plans” means the works plans (offshore) and the works plans (onshore);

“works plans (offshore)” means the plans certified as the works plans (offshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order; and

“works plans (onshore)” means the plans certified as the works plans (onshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order.

(2) In this marine licence, a reference to any statute, order, regulation or similar instrument is a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) In this marine licence, unless otherwise indicated—

(a) all times are Greenwich Mean Time (“GMT”);

(b) all coordinates are latitude and longitude degrees and minutes to two decimal places.

(4) Unless otherwise stated or agreed with the MMO, all submissions, notifications and communications must be sent by the undertaker to the MMO using MCMS. Except where otherwise notified in writing by the relevant organisation, the addresses for correspondence for the purposes of this marine licence are—

(a) Historic England

Brooklands

24 Brooklands Avenue

Cambridge

CB2 8BU

Tel: 01223 582749

Email: eastofengland@historicengland.org.uk

(b) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle upon Tyne

NE4 7YH

Email: marine.consents@marinemanagement.org.uk

Tel: 0300 123 1032

(c) Marine Management Organisation (local office)

Lowestoft Office

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Email: lowestoft@marinemanagement.org.uk

Tel: 02080266094

(d) Marine Management Organisation

Marine Pollution Response Team

Tel. (during office hours): 0300 200 2024,

Tel. (outside office hours): 07770 977 825 or 0845 051 8486

Email: dispersants@marinemanagement.org.uk

(e) Maritime and Coastguard Agency

UK Technical Services Navigation

Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2554

(f) Natural England

Foss House
Kings Pool
1-2 Peasholme Green
York
YO1 7PX
Tel: 0300 060 4911

(g) Trinity House

Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900

(h) United Kingdom Hydrographic Office

Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900

Details of licensed marine activities

2. Subject to the conditions this marine licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and objects specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works or cable works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this marine licence during pre-construction, construction and operation;
- (e) site clearance and preparation works including debris, boulder clearance and the removal of out of service cables and static fishing equipment; and
- (f) the disposal of up to 595,050 cubic metres of inert material of natural origin within the Order limits produced during construction drilling or seabed preparation for foundation works and cable works and boulder clearance works at disposal site references to be provided to the MMO within the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 1B— in the event of scenario 1, scenario 2, scenario 3 or scenario 4, an offshore wind turbine generating station with a gross electrical output capacity of more than 100 megawatts comprising up to 30 wind turbine generators located either all in DEP North or split between DEP North and DEP South each fixed to the seabed by piled monopile, suction bucket monopile, piled jacket, suction bucket jacket or gravity base structure foundations;

Work No. 2B—

- (a) in the event of scenario 1, scenario 2, scenario 3 or scenario 4, a network of subsea in-field cables between the wind turbine generators in Work No. 1B including cable protection and one or more cable crossings; and
- (b) in the event of scenario 1, scenario 2 or scenario 3, a network of subsea in-field cables between the wind turbine generators in Work No. 1B and Work No. 3B including cable protection and one or more cable crossings.

Work No. 6B— in the event of scenario 1, scenario 2 or scenario 3, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1B, 2B, 3B, 4B and 5B; or

Work No. 6C— in the event of scenario 4, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1A, 1B, 2A, 2B, 3C, 4C and 5C;

In connection with such Work No. 1B, 2B and 6B or 6C and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this marine licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work No. 1B and 2B and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, and boulder clearance and pre-trenching;
- (d) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project;
- (e) removal of static fishing equipment;
- (f) beacons, fenders and other navigational warning or ship impact protection works;
- (g) disposal of drill arisings in connection with any foundation drilling up to a total of 11,946 cubic metres; and
- (h) temporary deposit and removal of monitoring equipment.

4. The substances and objects authorised for deposit at sea are—

- (a) iron, steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the Order limits during construction drilling or seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for that part of the authorised project comprising Work No. 1B and 2B are specified below—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
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DEP North

1	53° 21' 9,563" N	1° 15' 42,020" E
2	53° 21' 9,584" N	1° 16' 30,130" E
3	53° 21' 9,602" N	1° 17' 32,335" E
4	53° 20' 46,340" N	1° 18' 7,238" E
5	53° 20' 58,886" N	1° 18' 37,507" E
6	53° 21' 16,936" N	1° 18' 58,324" E
7	53° 21' 24,406" N	1° 19' 46,805" E
8	53° 21' 27,180" N	1° 20' 4,816" E
9	53° 21' 37,414" N	1° 21' 11,318" E
10	53° 21' 47,638" N	1° 22' 17,828" E
11	53° 21' 57,851" N	1° 23' 24,348" E
12	53° 21' 25,995" N	1° 23' 42,880" E
13	53° 20' 54,139" N	1° 24' 1,404" E
14	53° 20' 5,326" N	1° 24' 0,033" E
15	53° 19' 36,128" N	1° 24' 8,276" E
16	53° 19' 9,827" N	1° 24' 23,580" E
17	53° 18' 34,113" N	1° 25' 3,960" E
18	53° 18' 17,503" N	1° 25' 24,511" E
19	53° 18' 0,222" N	1° 25' 39,259" E
20	53° 17' 15,148" N	1° 26' 5,612" E
21	53° 17' 35,036" N	1° 25' 24,340" E
22	53° 17' 54,920" N	1° 24' 43,056" E
23	53° 18' 14,801" N	1° 24' 1,762" E
24	53° 18' 34,677" N	1° 23' 20,458" E
25	53° 18' 35,113" N	1° 22' 55,059" E
26	53° 18' 9,353" N	1° 22' 14,077" E
27	53° 18' 55,523" N	1° 20' 33,698" E
28	53° 18' 18,216" N	1° 19' 28,603" E
29	53° 18' 23,044" N	1° 19' 18,170" E
30	53° 16' 40,497" N	1° 19' 9,998" E
31	53° 17' 29,099" N	1° 18' 30,623" E
32	53° 18' 17,849" N	1° 17' 51,100" E
33	53° 18' 52,654" N	1° 17' 33,836" E
34	53° 19' 27,459" N	1° 17' 16,563" E
35	53° 19' 41,748" N	1° 17' 0,577" E
36	53° 20' 6,981" N	1° 16' 32,339" E
37	53° 20' 32,550" N	1° 15' 58,780" E
38	53° 20' 0,390" N	1° 14' 40,388" E
39	53° 19' 31,548" N	1° 13' 30,141" E
40	53° 19' 2,699" N	1° 12' 19,932" E
41	53° 19' 34,347" N	1° 11' 47,739" E
42	53° 20' 5,992" N	1° 11' 15,533" E
43	53° 20' 37,635" N	1° 10' 43,313" E
44	53° 21' 9,275" N	1° 10' 11,081" E
45	53° 21' 9,340" N	1° 11' 6,237" E
46	53° 21' 9,399" N	1° 12' 1,393" E
47	53° 21' 9,451" N	1° 12' 56,550" E
48	53° 21' 9,495" N	1° 13' 51,706" E
49	53° 21' 9,533" N	1° 14' 46,863" E

DEP South

50	53° 12' 13,889" N	1° 25' 43,653" E
51	53° 12' 35,764" N	1° 25' 45,404" E
52	53° 14' 5,405" N	1° 25' 52,576" E
53	53° 13' 44,764" N	1° 27' 26,148" E
54	53° 13' 21,538" N	1° 28' 1,214" E
55	53° 12' 58,309" N	1° 28' 36,270" E
56	53° 12' 35,077" N	1° 29' 11,315" E
57	53° 12' 11,842" N	1° 29' 46,349" E
58	53° 11' 48,603" N	1° 30' 21,373" E
59	53° 11' 25,362" N	1° 30' 56,387" E
60	53° 11' 2,118" N	1° 31' 31,390" E
61	53° 10' 38,872" N	1° 32' 6,382" E
62	53° 10' 16,470" N	1° 31' 10,439" E
63	53° 9' 54,062" N	1° 30' 14,512" E
64	53° 9' 31,646" N	1° 29' 18,602" E
65	53° 9' 9,223" N	1° 28' 22,708" E
66	53° 9' 18,541" N	1° 27' 23,002" E
67	53° 9' 42,205" N	1° 26' 28,216" E
68	53° 10' 5,861" N	1° 25' 33,413" E
69	53° 12' 11,085" N	1° 25' 43,428" E

6. This marine licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine licence except that the provisions of section 72(7) and (8) relating to the transfer of the marine licence apply only to a transfer not falling within article 5 (benefit of order) of the Order.

8.—(1) With respect to any condition which requires the licensed activities be carried out in accordance with the details, plans or schemes approved under this marine licence, the approved details, plans or schemes are taken to include any amendments that may subsequently be approved in writing by the MMO.

(2) Any amendments to or variations from the approved details, plans or schemes must be in accordance with the principles and assessments set out in the environmental statement and approval of an amendment or variation may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

9. Should the undertaker become aware that any of the information on which the granting of this marine licence was based was materially false or misleading, the undertaker must notify the MMO of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information.

PART 2

Conditions

Design parameters

Wind turbine generators

- 1.—(1) Wind turbine generators forming part of the authorised project must not—
 - (a) exceed a height of 330 metres when measured from HAT to the tip of the vertical blade;
 - (b) exceed a rotor diameter of 300 metres;
 - (c) be less than 1.05 kilometres from the nearest wind turbine generator in any direction;
 - (d) have a distance of less than 30 metres between the lowest point of the rotating blade of the wind turbine generator and HAT;
 - (e) exceed 23 wind turbine generators in respect of the Sheringham Shoal Extension Project offshore works; or
 - (f) exceed 30 wind turbine generators in respect of the Dudgeon Extension Project offshore works.
- (2) The total rotor-swept area within Work No. 1B must not exceed 1.30 square kilometres.
- (3) References to the location of a wind turbine generator are references to the centre point at the base of the wind turbine generator.

Wind turbine generator foundations

- 2.—(1) Wind turbine generator foundations must be of one or more of the following foundation options: piled monopile, suction bucket monopile, piled jacket, suction bucket jacket or gravity base structure.
 - (2) No wind turbine generator piled monopile or suction bucket monopile foundation may—
 - (a) have a pile diameter exceeding 16 metres; or
 - (b) employ a hammer energy during installation exceeding 5,500 kilojoules.
 - (3) No wind turbine generator gravity base structure foundation may—
 - (a) have a seabed base plate exceeding 60 metres in diameter; or
 - (b) have a gravel footing exceeding 62 metres in diameter.
 - (4) No wind turbine generator piled jacket or suction bucket jacket foundation may—
 - (a) have more than four legs;
 - (b) have more than four piles;
 - (c) have a pile diameter exceeding four metres; or
 - (d) employ a hammer energy during installation exceeding 3,000 kilojoules.
 - (5) Within Work No. 1B, the wind turbine generator foundations must not have:
 - (a) a total combined seabed footprint (including scour protection) exceeding 610,726 square metres;
 - (b) a total combined amount of scour protection exceeding 542,867 square metres; or
 - (c) a total combined volume of scour protection exceeding 1,357,168 cubic metres.

Cables and cable crossings

- 3.—(1) Within Work No. 2B, the in-field cables must not, in total—
 - (a) exceed 54 in number;
 - (b) exceed 135 kilometres in length;
 - (c) exceed seven cable crossings;

- (d) have cable protection (including cable crossings) exceeding 4,000 square metres in area; or
- (e) have cable protection (including cable crossings) exceeding 1,000 cubic metres in volume.

Scenarios and Phases of authorised project

4.—(1) The authorised project must not be commenced until a notification has been submitted to the MMO as to whether the undertaker intends to commence scenario 1, scenario 2, scenario 3 or scenario 4.

(2) The notification required under sub-paragraph (1) must be submitted to the MMO prior to submission of the written scheme to be submitted for approval under sub-paragraph (3).

(3) The authorised project must not be commenced until a written scheme setting out (with regards to the relevant scenario notified under sub-paragraph (1)) the phases of construction of the authorised project has been submitted to and approved in writing by the MMO.

(4) Any subsequent amendments to the written scheme submitted for approval under sub-paragraphs (3) must be submitted to, and approved by, the MMO.

(5) The written scheme submitted for approval under sub-paragraphs (3) must be implemented as approved. The approved details shall be taken to include any amendment that may subsequently be approved in accordance with sub-paragraph (4).

Vessels under the undertaker's control

5. The undertaker must issue to operators of vessels under the undertakers control operating within the Order limits a code of conduct to reduce risk of injury to marine mammals.

Extension of time periods

6. Any time period given in this marine licence to either the undertaker or the MMO may be extended with the agreement of the other party, such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 17;
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 17;
- (b) within 28 days of receipt of a copy of this marine licence and any subsequent amendments or revisions to it, those persons referred to in sub-paragraph (1)(a) must confirm receipt of this marine licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 17 are permitted to carry out the licensed activities.

(3) Copies of this marine licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel and at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b).

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised project.

(6) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licensed activity.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details of the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—

(a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data;

(b) on completion of construction of all offshore activities,

and confirmation of notification must be provided to the MMO within five days.

(8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised project or any part thereof advising of the start date of each of Work Nos. 1B and 2B and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.

(9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations (or otherwise agreed) and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme and monitoring plan approved under condition 13(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify UKHO of :—

(a) commencement of the licensed activities at least ten working days prior to commencement; and

(b) completion (within 14 days) of the authorised project or any part thereof,

in order that all necessary amendments to nautical charts are made. Copies of all notices must be provided to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised project or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and UKHO.

(12) In case of the exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of Seafish of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, and UKHO within five days.

Aids to navigation

8.—(1) The undertaker must during the whole of the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as Trinity House may from time to time direct.

(2) The undertaker must during the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project keep Trinity House and the MMO informed of progress of the authorised project including—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 13(1)(g) using the reporting system provided by Trinity House.

(4) The undertaker must during the period from commencement of the licensed activities to completion of decommissioning of the authorised project notify Trinity House and the MMO of any failure of the aids to navigation, and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(11) or condition 7(12) are invoked the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of Structures

9. Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised project yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House. Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures grey (colour code RAL 7035).

Aviation safety

10. —(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by the Air Navigation Order 2016 and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the authorised project, in writing of the following information—

- (a) the date of the commencement of construction of the authorised project;
- (b) the date any wind turbine generators are to be installed;
- (c) the maximum height of any construction equipment or vessels to be used;
- (d) the maximum height of each wind turbine generator to be constructed;
- (e) the latitude and longitude of each wind turbine generator to be constructed;

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised project. Copies of notifications must be provided to the MMO within 5 days.

Chemicals, drilling and debris

11. —(1) Unless otherwise agreed in writing by the MMO, the carriage and use of chemicals in the construction of the authorised project must comply with the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110 percent of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO in writing of the location and quantities of material disposed of each month under this marine licence by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost below MHWS, the undertaker must report the loss in writing to the local enforcement office within 24 hours and if the MMO, in consultation with the MCA and Trinity House, reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must, in that event, demonstrate to the MMO that reasonable attempts have been made to locate, remove or move any such material.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 13(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

12. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

Pre-construction plans and documentation

13.—(1) The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO, in consultation with Trinity House, the MCA and UKHO as appropriate —

- (a) a plan prepared in accordance with the layout commitments setting out proposed details of the authorised project, including the:
 - (i) number, dimensions, specification, foundation type(s) and depth for each wind turbine generator, offshore platform and substation;
 - (ii) the grid coordinates of the centre point of the proposed location for each wind turbine generator, platform and substation;
 - (iii) proposed layout of all cables;
 - (iv) location and specification of all other aspects of the authorised project; and

- (v) any exclusion zones or micro-siting requirements identified pursuant to 13(1)(e)(v) or relating to any benthic habitats of conservation, ecological or economic importance constituting Annex I reef habitats identified as part of surveys undertaken in accordance with condition 18;

to ensure conformity with the description of Work No. 1B and 2B and compliance with conditions 1 to 3;

- (b) a construction programme and monitoring plan (which accords with the offshore in principle monitoring plan) which, save in respect information submitted pursuant to subparagraph (b)(iii)(aa), is to be submitted to the MMO at least six months prior to commencement of licensed activities and to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction surveys and monitoring and related reporting in accordance with conditions 18, 19 and 20 to be submitted to the MMO in accordance with the following (unless otherwise agreed in writing with the MMO):—
 - (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed pre-construction monitoring;
 - (bb) at least four months prior to construction, detail on construction monitoring; and
 - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;
 - (iv) an indicative written construction programme for all wind turbine generators and cables including fibre optic cables comprised in the works at Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);
- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
 - (i) cable specification, installation and monitoring to include—
 - (aa) the technical specification of cables below MHWS;
 - (bb) a detailed cable laying plan for the authorised project, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5 percent of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5 percent of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
 - (cc) proposals for monitoring cables including cable protection until the authorised project is decommissioned which includes a risk-based approach to the management of unburied or shallow buried cables;
 - (ii) scour protection and cable protection including details of the need, type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
 - (iii) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph (1)(i);
 - (iv) advisory safe passing distances for vessels around construction sites;

- (v) contractors;
 - (vi) vessels and vessel transit corridors;
 - (vii) associated ancillary works; and
 - (viii) guard vessels to be employed;
- (d) a project environmental management plan (in accordance with the outline project environmental management plan) covering the period of construction and operation to include details of—
- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised project in relation to all activities carried out;
 - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 4 and to address the interaction of the licensed activities with fishing activities; and
 - (vi) procedures, which must be adopted within vessel transit corridors to minimise disturbance to red-throated diver during the period 1 November to 31 March (inclusive), which must be in accordance with the best practice protocol for minimising disturbance to red throated diver;
 - (vii) a code of conduct for vessel operators to reduce risk of injury to mammals;
- (e) an archaeological written scheme of investigation in relation to the offshore Order limits seaward of MHWS, which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS ('Online Access to the Index of archaeological investigations') form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;

- (f) an offshore operations and maintenance plan (in accordance with the outline offshore operations and maintenance plan), to be submitted to the MMO at least six months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;
- (g) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House specifying how the undertaker will ensure compliance with condition 8 from the commencement of construction of the authorised project to the completion of decommissioning;
- (h) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies, to be submitted to the MMO at least six months prior to commencement of licensed activities;
- (i) a mitigation scheme for any benthic habitats of conservation, ecological and/or economic importance constituting Annex I reef habitats identified by the survey referred to in condition 18(4)(a) and in accordance with the offshore in principle monitoring plan;
- (j) an ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances to be submitted to the MMO at least six months prior to commencement of licensed activities; and
- (k) a navigation management plan to manage crew transfer vessels (including daughter craft) during the construction and operation of the authorised project.

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline written scheme of investigation (offshore)) which has been submitted to and approved by the MMO.

Site Integrity Plan

14.—(1) No piling activities can take place until a Site Integrity Plan (“SIP”), which accords with the principles set out in the in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (“SNS SAC”) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted in writing to the MMO no later than six months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the preconstruction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.

15.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 13 must be submitted in writing for approval at least four months prior to the intended

commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The MMO must determine an application for approval made under conditions 13 and 14 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(3) The licensed activities must be carried out in accordance with the plans, protocols, statements, schemes and details approved under conditions 13 and 14, unless otherwise agreed in writing by the MMO.

Offshore safety management

16. No part of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it) and its annexes.

Reporting of engaged agents, contractors and vessels

17.—(1) The undertaker must provide the following information in writing to the MMO—

- (a) the name, function, company number (if applicable), registered or head office address (as appropriate) of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) The undertaker must notify the MMO in writing of any vessel being used to carry on any licensed activity listed in this marine licence on behalf of the undertaker. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity. Notification must include the master’s name, vessel type, vessel IMO number and vessel owner or operating company

(3) Any changes to the supplied details must be notified to the MMO in writing at least 24 hours before the agent, contractor or vessel engages in the licensed activities.

Pre-construction monitoring and surveys

18.—(1) The undertaker must, in discharging condition 13(1)(b), submit a monitoring plan or plans in accordance with the offshore in principle monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body, which must contain details of proposed monitoring and surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report.

(2) The survey proposals submitted under sub-paragraph (1) must be in general accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The baseline report proposals submitted under sub-paragraph (1) must ensure that the outcome of the agreed surveys, together with existing data and reports, are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(4) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats in the parts of the Order limits in which it is proposed to carry out construction works;
- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works;
- (c) undertake any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 13(1)(j); and
- (d) undertake or contribute to any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 13(1)(h).

(5) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Construction monitoring and surveys

19.—(1) The undertaker must, in discharging condition 13(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring and surveys, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(3) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) The results of the initial noise measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the reasonable opinion of the MMO in consultation with the relevant statutory nature conservation body, the assessment shows significantly different impacts to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(5) The undertaker must carry out the surveys specified in the construction monitoring plan in accordance with that plan, including any further noise monitoring required in writing by the MMO under sub-paragraph (4), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(6) Construction monitoring must include vessel traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring at the end of each year of the construction period to the MMO, MCA and Trinity House.

(7) In the event that piled foundations are proposed to be used, the details submitted in accordance with the marine mammal mitigation protocol must include proposals for monitoring marine mammals.

Post-construction monitoring and surveys

20.—(1) The undertaker must, in discharging condition 13(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with relevant statutory nature conservation bodies of proposed post-construction

monitoring and surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results.

(2) The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed in writing with the MMO, have due regard to, but not be limited to, the need to—

- (a) undertake an appropriate survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) undertake, within 12 months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected;
- (c) undertake any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 13(1)(j);
- (d) undertake post-construction traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring to the MMO, MCA and Trinity House; and
- (e) undertake or contribute to any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 13(1)(h).

(4) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(5) Following installation of cables, the cable monitoring plan required under condition 13(1)(c) must be updated with the results of the post installation surveys. The plan must be implemented until the authorised scheme is decommissioned and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

(6) In the event that the reports provided to the MMO under sub-paragraph (4) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with the MMO in writing and implemented as agreed.

~~(6)~~(7) In the event that the reports provided to the MMO under sub-paragraph (4) identify that there are significant adverse effects post-mitigation, the Applicant shall notify the MMO and the relevant ANCBs of this in writing with a view to agreeing to a course of adaptive management/mitigation to reduce such effects. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent. Any such agreed or approved adaptive management/mitigation should be implemented in full to a timetable first agreed in writing with the MMO.

Reporting of scour and cable protection

21.—(1) Not more than four months following completion of the construction of the authorised project, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the authorised project.

(2) The report must include the following information—

- (a) the location of cable protection and scour protection;
- (b) the volume of cable protection and scour protection; and
- (c) any other information relating to the cable protection and scour protection as agreed

between the MMO and the undertaker.

Completion of construction

22. —(1) The undertaker must submit a close out report to the MMO, the MCA, Trinity House, UKHO and the relevant statutory nature conservation body within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—

- (a) the final number of installed turbine generators;
- (b) the installed wind turbine generator parameters;
- (c) as built plans;
- (d) latitude and longitude coordinates of the centre point of the location for each wind turbine generator and offshore platform, substation and booster station, provided as Geographical Information System data referenced to WGS84 datum; and
- (e) latitude and longitude coordinates of the in-field cables, provided as Geographical Information System data referenced to WGS84 datum.

(2) Following completion of construction, no further construction activities can be undertaken under this marine licence.

Sediment Sampling

23. —(1) The undertaker must submit a sample plan request in writing to the MMO for written approval of a sample plan.

(2) The sample plan request must be made—

- (a) or capital dredging, at least six months prior to the commencement of any capital dredging; or
- (b) for maintenance dredging, at least six months prior to the end of every third year from the date of the previous sediment sample analysis.

(3) The sample plan request must include details of—

- (a) the volume of material to be dredged;
- (b) the location of the area to be dredged;
- (c) details of the material type proposed for dredging;
- (d) the type and dredging methodology (including whether it is a capital or maintenance dredge, depth of material to be dredged and proposed programme for the dredging activities); and
- (e) the location and depth of any supporting samples.

(4) Unless otherwise agreed by the MMO, the undertaker must undertake the sampling in accordance with the approved sample plan.

Collaboration

24. —(1) Prior to submission of plans and documentation required to be submitted to the MMO for approval in accordance with conditions 13 and 14, the undertaker must provide a copy of the relevant plans and documentation to SEL to enable SEL to provide any comments on the plans and documentation to the undertaker.

(2) The plans and documentation submitted to the MMO for approval in accordance with conditions 13 and 14 must be accompanied by any comments received by the undertaker from SEL in accordance with sub-paragraph (1) or a statement from the undertaker confirming that no such comments were received.

Obstacle free zone for navigational safety

25. —(1) No infrastructure of any type included within the offshore works, including wind turbine generators and offshore substation platforms, shall be installed within the area defined by

the coordinates as specified below and no part of any wind turbine generator, including its blades, may overfly into the area:

<u>Point ID of the area</u>	<u>Latitude (D°M.MM')</u>	<u>Longitude (D°M.MM')</u>
<u>A (NW corner)</u>	<u>53° 21.1541' N</u>	<u>1° 10.1853' E</u>
<u>B (SW corner)</u>	<u>53° 19.0449' N</u>	<u>1° 12.3327' E</u>
<u>C (NE corner)</u>	<u>53° 21.1558' N</u>	<u>1° 11.8346' E</u>
<u>D (SE corner)</u>	<u>53° 19.5696' N</u>	<u>1° 13.6102' E</u>

Marine Licence 3: Sheringham Shoal Extension Project Offshore
Transmission – Work Nos. 3A to 7A or 3C to 7C

PART 1

Licensed marine activities

Interpretation

1.—(1) In this marine licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this marine licence;

“authorised project” means Work Nos. 3A to 7A (in the event of scenario 1, scenario 2 or scenario 3) or 3C to 5C, 6A and 7C (in the event of scenario 4) and the further associated development described in paragraph 3 of Part 1 of this marine licence or any part of those works or development;

“buoy” means any floating device used for navigational purposes or measurement purposes including LiDAR buoys, wave buoys and guard buoys;

“cable” includes cables for the transmission of electricity and fibre-optic cables;

“cable crossing” means the crossing of existing subsea cables and pipelines by the array, inter-array or export cables authorised by the Order and forming part of the authorised project together with physical protection measures including cable protection;

“cable protection” means measures to protect cables forming part of the authorised project from physical damage and exposure due to loss of seabed sediment including, but not limited to, rock placement, mattresses with or without frond devices, protective aprons or coverings, bagged solutions filled with sand, rock, grout or other materials and protective shells;

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction monitoring surveys approved under this marine licence, and “commenced” and “commencement” must be construed accordingly;

“commercial operation” means in relation to any part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

“Cromer Shoal Chalk Beds MCZ” means the Marine Conservation Zone designated by the Secretary of State under the Cromer Shoal Chalk Beds Marine Conservation Zone Designation Order 2016;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL and any successor body to its functions;

“DEL” means Dudgeon Extension Limited, company number 12148301, whose registered office is at 1 Kingdom Street, London W2 6BD;

“DEP North” means the array extension area located to the north of DOW;

“DEP South” means the array extension area located to the south of DOW;

“DOW” means the Dudgeon Offshore Wind Farm;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“Dudgeon Extension Project” means the Dudgeon Extension Project offshore works and the Dudgeon Extension Project onshore works;

“Dudgeon Extension Project offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1B to 7B and any other authorised development associated with those works; or
- (b) in the event of scenario 4, Work Nos. 1B, 2B, the integrated offshore works and any other authorised development associated with those works;

“Dudgeon Extension Project onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8B to 14B, the scenario 3 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;
- (c) in the event of scenario 4, Work Nos. 10B, 11B, 13B, 14B, the scenario 4 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“gravity base structure foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast, skirts or other additional fixings, and associated equipment including scour protection, J-tubes, corrosion protection systems, access platforms and equipment and separate topside connection structures or integrated transition pieces;

“HAT” means highest astronomical tide;

“HDD” or “horizontal direction drilling” refers to a trenchless technique for installing cables and cable ducts involving drilling in an arc between two points;

“HVAC” means high voltage alternating current;

“in-field cable” means a subsea cable linking two or more offshore structures;

“in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation” means the document certified as the in-principle Site Integrity Plan for the Southern North Sea Special Area of Conservation by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“integrated offshore substation platform” means a single offshore substation platform to be constructed and operated for the benefit of both SEL and DEL;

“integrated offshore works” means Work Nos. 3C, 4C, 5C, 6C and 7C;

“interlink cable” means a subsea cable linking two offshore areas;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as J-tubes, corrosion protection systems and access platforms;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“joint bay” means an excavation located at regular intervals along the cable route consisting of a concrete flat base slab constructed beneath the ground to facilitate the jointing together of the cables;

“LAT” means lowest astronomical tide;

“land plans” means the plans certified as the land plans by the Secretary of State under article 38 of the Order;

“layout commitments” means the layout commitments contained within the navigation risk assessment at appendix 13.1 of the environmental statement;

“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” means the body created under the 2009 Act which is responsible for the regulation of this marine licence or any successor of that function and “MMO” shall be construed accordingly;

“MCA” means the Maritime and Coastguard Agency, the executive agency of the Department for Transport;

“MCMS” means the Marine Case Management System web portal provided and operated by the MMO;

“MHWS” or “mean high water springs” means the highest level that spring tides reach on average over a period of time;

“MLWS” or “mean low water springs” means the lowest level that spring tides reach on average over a period of time;

“monopile foundation” means a steel pile driven or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“offshore order limits and grid coordinates plan” means the plans certified as the offshore order limits and grid coordinates plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“offshore substation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad, containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marking and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

“offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A, 1B to 7B and any other authorised development associated with those works;
- (b) in the event of scenario 4, Work Nos. 1A, 1B, 2A, 2B, the integrated offshore works, and any other authorised development associated with those works;

“onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A, Work Nos. 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8A to 14A, 8B to 14B, the scenario 3 integrated onshore works, 18A to 22A, 18B to 22B and any other authorised development associated with those works; or
- (c) in the event of scenario 4, Work Nos. 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A and 18B to 22B, the scenario 4 integrated onshore works and any other authorised development associated with those works;

“Order” means The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 20[];

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the offshore order limits and grid coordinates plans within which the authorised project may be carried out and the grid coordinates for Work Nos. 3A, 4A, 5A and 7A are set out in paragraph 5 of Part 1 of this marine licence and the grid coordinates for Work Nos. 3C, 4C, 5C and 7C are set out in paragraph 6 of Part 1 of this marine licence;

“outline Cromer Shoal Chalk Beds Marine Conservation Zone cable specification, installation and monitoring plan” means the document certified as the cable specification, installation and monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline marine traffic monitoring plan” means the document certified as the outline marine traffic monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, flow energy dissipation devices and rock and gravel placement;

“SEL” means Scira Extension Limited, company number 12239260, whose registered office is at 1 Kingdom Street, London W2 6BD;

“scenario 1” means each generating station will be constructed in any one of the following ways:—

- (a) the construction of the Sheringham Shoal Extension Project only where the Dudgeon Extension Project does not proceed to construction;
- (b) the construction of the Dudgeon Extension Project only where the Sheringham Shoal Extension Project does not proceed to construction;
- (c) sequential construction where the Sheringham Shoal Extension Project is constructed first then the Dudgeon Extension Project is constructed second or vice versa; or

(d) concurrent construction of the Sheringham Shoal Extension Project and the Dudgeon Extension Project;

“scenario 2” means a sequential construction scenario in which either the Sheringham Shoal Extension Project is constructed first and SEL installs the ducts for the Dudgeon Extension Project or the Dudgeon Extension Project is constructed first and DEL installs the ducts for the Sheringham Shoal Extension Project;

“scenario 3” means:—

(a) sequential or concurrent construction of Work Nos. 1A to 14A, 18A to 22A, 1B to 14B, 18B to 22B; and

(b) construction of the scenario 3 integrated onshore works;

“scenario 3 integrated onshore works” means Work Nos. 15C to 17C;

“scenario 4” means:—

(a) sequential or concurrent construction of Work Nos. 1A, 1B, 2A, 2B, 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A, 18B to 22B; and

(b) construction of the integrated offshore works and the scenario 4 integrated onshore works;

“scenario 4 integrated onshore works” means Work Nos. 8C, 9C, 12C, 15C, 16C and 17C;

“Sheringham Shoal Extension Project” means the Sheringham Shoal Extension Project onshore works and the Sheringham Shoal Extension Project offshore works;

“Sheringham Shoal Extension Project offshore works” means:—

(a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A and any authorised development associated with those works; or

(b) in the event of scenario 4, Work Nos. 1A, 2A, the integrated offshore works and any other authorised development associated with those works;

“Sheringham Shoal Extension Project onshore works” means:—

(a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A and any other authorised development associated with those works; or

(b) in the event of scenario 3, Work Nos. 8A to 14A, the scenario 3 integrated onshore works, 18A to 22A and any other authorised development associated with those works; or

(c) in the event of scenario 4, Work Nos. 10A, 11A, 13A, 14A, the scenario 4 integrated onshore works, 18A to 22A and any other authorised development associated with any of those works;

“statutory historic body” means Historic England or its successor in function;

“statutory nature conservation body” means an organisation charged by the government with advising on nature conservation matters;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket or monopile foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UKHO” means the United Kingdom Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Scira Extension Limited, company number 12239260, whose registered office is at 1 Kingdom Street, London W2 6BD;

“VHF” means very high frequency;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or

adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, a rotor with three blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation;

“works plans” means the works plans (offshore) and the works plans (onshore);

“works plans (offshore)” means the plans certified as the works plans (offshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order; and

“works plans (onshore)” means the plans certified as the works plans (onshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order.

(2) In this marine licence, a reference to any statute, order, regulation or similar instrument is a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) In this marine licence, unless otherwise indicated—

(a) all times are Greenwich Mean Time (“GMT”);

(b) all coordinates are latitude and longitude degrees and minutes to two decimal places.

(4) Unless otherwise stated or agreed with the MMO, all submissions, notifications and communications must be sent by the undertaker to the MMO using MCMS. Except where otherwise notified in writing by the relevant organisation, the addresses for correspondence for the purposes of this marine licence are—

(a) Historic England

Brooklands

24 Brooklands Avenue

Cambridge

CB2 8BU

Tel: 01223 582749

Email: eastofengland@historicengland.org.uk

(b) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle upon Tyne

NE4 7YH

Email: marine.consents@marinemanagement.org.uk

Tel: 0300 123 1032

(c) Marine Management Organisation (local office)

Lowestoft Office

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Email: lowestoft@marinemanagement.org.uk

Tel: 02080266094

- (d) Marine Management Organisation
Marine Pollution Response Team
Tel. (during office hours): 0300 200 2024,
Tel. (outside office hours): 07770 977 825 or 0845 051 8486
Email: dispersants@marinemangement.org.uk
- (e) Maritime and Coastguard Agency
UK Technical Services Navigation
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2554
- (f) Natural England
Foss House
Kings Pool
1-2 Peasholme Green
York
YO1 7PX
Tel: 0300 060 4911
- (g) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900
- (h) United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900

Details of licensed marine activities

2. Subject to the conditions this marine licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and objects specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works or cable works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this marine licence during pre-construction, construction and operation;
- (e) site clearance and preparation works including debris, boulder clearance and the removal of out of service cables and static fishing equipment; and
- (f) the disposal of up to 145,325 cubic metres of inert material of natural origin within the Order limits produced during construction drilling or seabed preparation for foundation

works and cable works and boulder clearance works at disposal site references to be provided to the MMO within the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 3A— in the event of scenario 1, scenario 2 or scenario 3, an offshore substation platform fixed to the seabed by either piled jacket, or suction bucket jacket foundations within the area shown on the works plans; or

Work No. 3C— in the event of scenario 4, an integrated offshore substation platform fixed to the seabed by either piled jacket or suction bucket jacket foundations within the area shown on the works plans;

Work No. 4A— in the event of scenario 1, scenario 2 or scenario 3, HVAC subsea export cables between Work No. 3A and Work No. 5A along routes within the area shown on the works plans including cable protection and one or more cable crossings; or

Work No. 4C— in the event of scenario 4—

- (a) interlink cables between DEP North and Work No. 3C and DEP South and Work No. 3C; and
- (b) HVAC subsea export cables between Work No. 3C and Work No. 5C along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 5A— in the event of scenario 1, scenario 2 or scenario 3, HVAC subsea export cables between Work No. 4A and Work No. 7A along routes within the area shown on the works plans including cable protection and one or more cable crossings; or

Work No. 5C— in the event of scenario 4, HVAC subsea export cables between Work No. 4C and Work No. 7C along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 6A— in the event of scenario 1, scenario 2 or scenario 3, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1A, 2A, 3A, 4A and 5A; or

Work No. 6C— in the event of scenario 4, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1A, 1B, 2A, 2B, 3C, 4C and 5C;

Work No. 7A— in the event of scenario 1, scenario 2 or scenario 3, landfall connection works between Work No. 5A and Work No. 8A comprising of a cable circuit and ducts seaward of MHWS within the area shown on the works plans; or

Work No. 7C— in the event of scenario 4, landfall connection works between Work No. 5C and Work No. 8C comprising of up to two cable circuits and ducts seaward of MHWS within the area shown on the works plans;

In connection with such Work Nos. 3A to 7A or Work Nos. 3C to 7C and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this marine licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 3A to 7A or 3C to 7C and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works,

cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits;

- (d) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project;
- (e) removal of static fishing equipment;
- (f) beacons, fenders and other navigational warning or ship impact protection works;
- (g) disposal of drill arisings in connection with any foundation drilling up to a total of 425 cubic metres; and
- (h) temporary deposit and removal of monitoring equipment.

4. The substances and objects authorised for deposit at sea are—

- (a) iron, steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the Order limits during construction drilling or seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for that part of the authorised project comprising Work Nos. 3A, 4A, 5A and 7A are specified below—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 57' 35,361" N	1° 10' 20,295" E
2	52° 56' 54,694" N	1° 9' 27,639" E
3	52° 56' 54,694" N	1° 9' 27,604" E
4	52° 56' 54,690" N	1° 9' 27,438" E
5	52° 56' 54,680" N	1° 9' 27,273" E
6	52° 56' 54,664" N	1° 9' 27,109" E
7	52° 56' 54,643" N	1° 9' 26,945" E
8	52° 56' 54,630" N	1° 9' 26,860" E
9	52° 56' 54,631" N	1° 9' 26,827" E
10	52° 56' 54,664" N	1° 9' 25,966" E
11	52° 56' 54,694" N	1° 9' 25,197" E
12	52° 56' 54,708" N	1° 9' 24,908" E
13	52° 56' 54,755" N	1° 9' 24,108" E
14	52° 56' 54,825" N	1° 9' 22,821" E
15	52° 56' 54,902" N	1° 9' 21,380" E
16	52° 56' 54,954" N	1° 9' 20,542" E
17	52° 56' 54,988" N	1° 9' 19,874" E
18	52° 56' 55,005" N	1° 9' 19,463" E
19	52° 56' 55,021" N	1° 9' 19,228" E
20	52° 56' 55,096" N	1° 9' 18,274" E
21	52° 56' 55,133" N	1° 9' 17,756" E
22	52° 56' 55,159" N	1° 9' 17,538" E
23	52° 56' 55,187" N	1° 9' 17,240" E
24	52° 56' 55,258" N	1° 9' 16,558" E
25	52° 56' 55,336" N	1° 9' 15,883" E
26	52° 56' 55,442" N	1° 9' 14,936" E

27	52° 56' 55,566" N	1° 9' 13,609" E
28	52° 56' 55,689" N	1° 9' 12,143" E
29	52° 56' 55,724" N	1° 9' 11,700" E
30	52° 56' 55,761" N	1° 9' 11,231" E
31	52° 56' 55,789" N	1° 9' 10,675" E
32	52° 56' 55,816" N	1° 9' 10,210" E
33	52° 56' 55,838" N	1° 9' 9,767" E
34	52° 56' 55,855" N	1° 9' 9,204" E
35	52° 56' 55,878" N	1° 9' 8,627" E
36	52° 56' 55,882" N	1° 9' 8,037" E
37	52° 56' 55,885" N	1° 9' 7,479" E
38	52° 56' 55,894" N	1° 9' 6,938" E
39	52° 56' 55,906" N	1° 9' 6,520" E
40	52° 56' 55,940" N	1° 9' 5,589" E
41	52° 56' 55,960" N	1° 9' 4,555" E
42	52° 56' 55,985" N	1° 9' 3,908" E
43	52° 56' 56,007" N	1° 9' 3,035" E
44	52° 56' 56,043" N	1° 9' 2,131" E
45	52° 56' 56,081" N	1° 9' 1,281" E
46	52° 56' 56,125" N	1° 9' 0,426" E
47	52° 56' 56,138" N	1° 9' 0,083" E
48	52° 56' 56,144" N	1° 9' 0,019" E
49	52° 56' 56,142" N	1° 8' 59,955" E
50	52° 56' 56,135" N	1° 8' 59,853" E
51	52° 56' 56,120" N	1° 8' 59,728" E
52	52° 56' 56,115" N	1° 8' 59,685" E
53	52° 56' 56,113" N	1° 8' 59,636" E
54	52° 56' 56,116" N	1° 8' 59,535" E
55	52° 56' 56,126" N	1° 8' 59,396" E
56	52° 56' 56,149" N	1° 8' 59,280" E
57	52° 56' 56,156" N	1° 8' 59,130" E
58	52° 56' 56,160" N	1° 8' 59,023" E
59	52° 56' 56,159" N	1° 8' 58,921" E
60	52° 56' 56,153" N	1° 8' 58,797" E
61	52° 56' 56,149" N	1° 8' 58,711" E
62	52° 56' 56,158" N	1° 8' 58,620" E
63	52° 56' 56,166" N	1° 8' 58,567" E
64	52° 56' 56,177" N	1° 8' 58,514" E
65	52° 56' 56,199" N	1° 8' 58,436" E
66	52° 56' 56,210" N	1° 8' 58,388" E
67	52° 56' 56,221" N	1° 8' 58,336" E
68	52° 56' 56,229" N	1° 8' 58,283" E
69	52° 56' 56,234" N	1° 8' 58,224" E
70	52° 56' 56,236" N	1° 8' 58,154" E
71	52° 56' 56,232" N	1° 8' 58,084" E
72	52° 56' 56,213" N	1° 8' 57,949" E
73	52° 56' 56,196" N	1° 8' 57,851" E
74	52° 56' 56,191" N	1° 8' 57,792" E
75	52° 56' 56,190" N	1° 8' 57,727" E
76	52° 56' 56,192" N	1° 8' 57,652" E

77	52° 56' 56,200" N	1° 8' 57,578" E
78	52° 56' 56,212" N	1° 8' 57,482" E
79	52° 56' 56,230" N	1° 8' 57,392" E
80	52° 56' 56,244" N	1° 8' 57,351" E
81	52° 56' 56,255" N	1° 8' 57,303" E
82	52° 56' 56,267" N	1° 8' 57,218" E
83	52° 56' 56,273" N	1° 8' 57,122" E
84	52° 56' 56,271" N	1° 8' 56,950" E
85	52° 56' 56,256" N	1° 8' 56,751" E
86	52° 56' 56,247" N	1° 8' 56,601" E
87	52° 56' 56,242" N	1° 8' 56,536" E
88	52° 56' 56,244" N	1° 8' 56,472" E
89	52° 56' 56,260" N	1° 8' 56,361" E
90	52° 56' 56,274" N	1° 8' 56,303" E
91	52° 56' 56,285" N	1° 8' 56,239" E
92	52° 56' 56,307" N	1° 8' 56,021" E
93	52° 56' 56,320" N	1° 8' 55,647" E
94	52° 56' 56,327" N	1° 8' 55,080" E
95	52° 56' 56,337" N	1° 8' 54,834" E
96	52° 56' 56,357" N	1° 8' 54,434" E
97	52° 56' 56,378" N	1° 8' 53,980" E
98	52° 56' 56,405" N	1° 8' 53,527" E
99	52° 56' 56,442" N	1° 8' 52,977" E
100	52° 56' 56,474" N	1° 8' 52,583" E
101	52° 56' 56,485" N	1° 8' 52,402" E
102	52° 56' 56,493" N	1° 8' 52,215" E
103	52° 56' 56,496" N	1° 8' 52,018" E
104	52° 56' 56,571" N	1° 8' 50,912" E
105	52° 56' 56,607" N	1° 8' 50,422" E
106	52° 56' 56,644" N	1° 8' 49,931" E
107	52° 56' 56,682" N	1° 8' 49,441" E
108	52° 56' 56,719" N	1° 8' 48,951" E
109	52° 56' 56,755" N	1° 8' 48,460" E
110	52° 56' 56,778" N	1° 8' 48,023" E
111	52° 56' 56,793" N	1° 8' 47,584" E
112	52° 56' 56,804" N	1° 8' 47,144" E
113	52° 56' 56,821" N	1° 8' 46,705" E
114	52° 56' 56,849" N	1° 8' 46,269" E
115	52° 56' 57,031" N	1° 8' 44,094" E
116	52° 56' 57,117" N	1° 8' 43,069" E
117	52° 56' 57,183" N	1° 8' 42,274" E
118	52° 56' 57,208" N	1° 8' 42,038" E
119	52° 56' 57,216" N	1° 8' 41,942" E
120	52° 56' 57,222" N	1° 8' 41,846" E
121	52° 56' 57,222" N	1° 8' 41,826" E
122	52° 56' 57,242" N	1° 8' 41,608" E
123	52° 56' 57,243" N	1° 8' 41,601" E
124	52° 56' 57,276" N	1° 8' 41,405" E
125	52° 56' 57,304" N	1° 8' 41,209" E
126	52° 56' 57,335" N	1° 8' 40,949" E

127	52° 56' 57,367" N	1° 8' 40,652" E
128	52° 56' 57,390" N	1° 8' 40,348" E
129	52° 56' 57,409" N	1° 8' 40,076" E
130	52° 56' 57,426" N	1° 8' 39,917" E
131	52° 56' 57,434" N	1° 8' 39,811" E
132	52° 56' 57,442" N	1° 8' 39,576" E
133	52° 56' 57,443" N	1° 8' 39,487" E
134	52° 56' 57,471" N	1° 8' 39,155" E
135	52° 56' 57,517" N	1° 8' 38,578" E
136	52° 56' 57,560" N	1° 8' 37,999" E
137	52° 56' 57,601" N	1° 8' 37,421" E
138	52° 56' 57,628" N	1° 8' 36,995" E
139	52° 56' 57,651" N	1° 8' 36,569" E
140	52° 56' 57,673" N	1° 8' 36,143" E
141	52° 56' 57,696" N	1° 8' 35,716" E
142	52° 56' 57,723" N	1° 8' 35,291" E
143	52° 56' 57,756" N	1° 8' 34,877" E
144	52° 56' 57,791" N	1° 8' 34,520" E
145	52° 56' 57,805" N	1° 8' 34,405" E
146	52° 56' 57,833" N	1° 8' 34,187" E
147	52° 56' 57,854" N	1° 8' 33,996" E
148	52° 56' 57,876" N	1° 8' 33,767" E
149	52° 56' 57,909" N	1° 8' 33,475" E
150	52° 56' 57,937" N	1° 8' 33,262" E
151	52° 56' 57,958" N	1° 8' 33,060" E
152	52° 56' 57,974" N	1° 8' 32,825" E
153	52° 56' 57,988" N	1° 8' 32,547" E
154	52° 56' 57,996" N	1° 8' 32,371 E
155	52° 56' 58,009" N	1° 8' 32,099" E
156	52° 56' 58,026" N	1° 8' 31,698" E
157	52° 56' 58,053" N	1° 8' 31,164" E
158	52° 56' 58,091" N	1° 8' 30,706" E
159	52° 56' 58,128" N	1° 8' 30,178" E
160	52° 56' 58,173" N	1° 8' 29,592" E
161	52° 56' 58,219" N	1° 8' 29,048" E
162	52° 56' 58,278" N	1° 8' 28,431" E
163	52° 56' 58,343" N	1° 8' 27,669" E
164	52° 56' 58,359" N	1° 8' 27,381" E
165	52° 56' 58,372" N	1° 8' 27,216" E
166	52° 56' 58,390" N	1° 8' 26,964" E
167	52° 56' 58,392" N	1° 8' 26,912" E
168	52° 56' 58,403" N	1° 8' 26,797" E
169	52° 56' 58,398" N	1° 8' 26,780" E
170	52° 56' 57,591" N	1° 8' 23,453" E
171	52° 56' 57,607" N	1° 8' 23,312" E
172	52° 56' 57,696" N	1° 8' 22,616" E
173	52° 56' 57,819" N	1° 8' 21,510" E
174	52° 56' 58,021" N	1° 8' 19,543" E
175	52° 56' 58,156" N	1° 8' 18,267" E
176	52° 56' 58,293" N	1° 8' 16,991" E

177	52° 56' 58,371" N	1° 8' 16,290" E
178	52° 56' 58,452" N	1° 8' 15,590" E
179	52° 56' 58,533" N	1° 8' 14,889" E
180	52° 56' 58,611" N	1° 8' 14,188" E
181	52° 56' 58,684" N	1° 8' 13,438" E
182	52° 56' 58,747" N	1° 8' 12,686" E
183	52° 56' 58,808" N	1° 8' 11,957" E
184	52° 56' 58,817" N	1° 8' 11,966" E
185	52° 56' 58,840" N	1° 8' 11,992" E
186	52° 56' 59,726" N	1° 8' 12,960" E
187	52° 57' 0,102" N	1° 8' 13,371" E
188	52° 57' 8,134" N	1° 8' 22,147" E
189	52° 57' 14,357" N	1° 8' 25,824" E
190	52° 57' 22,662" N	1° 8' 28,252" E
191	52° 57' 40,113" N	1° 8' 33,188" E
192	52° 57' 42,426" N	1° 8' 35,383" E
193	52° 57' 52,102" N	1° 8' 56,636" E
194	52° 58' 16,245" N	1° 10' 2,679" E
195	52° 58' 41,839" N	1° 10' 38,668" E
196	52° 59' 7,430" N	1° 11' 14,669" E
197	52° 59' 42,249" N	1° 12' 2,219" E
198	53° 0' 17,064" N	1° 12' 49,789" E
199	53° 0' 35,405" N	1° 13' 4,931" E
200	53° 0' 57,553" N	1° 13' 25,221" E
201	53° 1' 22,451" N	1° 13' 58,051" E
202	53° 1' 27,774" N	1° 14' 5,055" E
203	53° 1' 30,435" N	1° 14' 8,557" E
204	53° 1' 31,101" N	1° 14' 9,432" E
205	53° 1' 31,267" N	1° 14' 9,651" E
206	53° 1' 31,350" N	1° 14' 9,760" E
207	53° 1' 31,433" N	1° 14' 9,870" E
208	53° 1' 31,766" N	1° 14' 10,308" E
209	53° 1' 33,097" N	1° 14' 12,058" E
210	53° 1' 43,742" N	1° 14' 26,066" E
211	53° 1' 54,320" N	1° 14' 36,758" E
212	53° 1' 59,354" N	1° 14' 39,959" E
213	53° 1' 59,983" N	1° 14' 40,359" E
214	53° 2' 0,613" N	1° 14' 40,760" E
215	53° 2' 1,871" N	1° 14' 41,560" E
216	53° 2' 4,388" N	1° 14' 43,161" E
217	53° 2' 14,457" N	1° 14' 49,564" E
218	53° 3' 4,871" N	1° 15' 12,274" E
219	53° 4' 0,089" N	1° 15' 35,690" E
220	53° 4' 23,250" N	1° 15' 46,786" E
221	53° 5' 0,996" N	1° 15' 11,113" E
222	53° 5' 20,705" N	1° 14' 48,183" E
223	53° 5' 33,957" N	1° 13' 54,955" E
224	53° 5' 47,202" N	1° 13' 1,718" E
225	53° 5' 47,266" N	1° 13' 1,677" E
226	53° 5' 47,266" N	1° 13' 1,676" E

227	53° 5' 47,540" N	1° 13' 1,498" E
228	53° 5' 47,545" N	1° 13' 1,495" E
229	53° 5' 50,444" N	1° 12' 59,604" E
230	53° 5' 50,506" N	1° 12' 59,565" E
231	53° 6' 19,018" N	1° 12' 40,975" E
232	53° 6' 19,097" N	1° 12' 40,924" E
233	53° 6' 42,962" N	1° 12' 25,364" E
234	53° 6' 43,080" N	1° 12' 25,287" E
235	53° 7' 12,739" N	1° 12' 5,962" E
236	53° 7' 42,397" N	1° 11' 46,630" E
237	53° 7' 49,968" N	1° 11' 41,694" E
238	53° 8' 12,055" N	1° 11' 27,290" E
239	53° 8' 41,711" N	1° 11' 7,942" E
240	53° 8' 41,717" N	1° 11' 7,938" E
241	53° 8' 49,191" N	1° 11' 3,065" E
242	53° 8' 49,206" N	1° 11' 3,056" E
243	53° 8' 57,559" N	1° 10' 57,610" E
244	53° 8' 57,564" N	1° 10' 57,607" E
245	53° 8' 58,833" N	1° 10' 56,779" E
246	53° 8' 58,859" N	1° 10' 56,762" E
247	53° 9' 10,110" N	1° 10' 9,689" E
248	53° 9' 21,357" N	1° 9' 22,609" E
249	53° 9' 32,598" N	1° 8' 35,522" E
250	53° 9' 43,834" N	1° 7' 48,428" E
251	53° 9' 55,065" N	1° 7' 1,328" E
252	53° 10' 6,290" N	1° 6' 14,221" E
253	53° 10' 17,511" N	1° 5' 27,107" E
254	53° 10' 28,726" N	1° 4' 39,986" E
255	53° 10' 46,425" N	1° 3' 19,628" E
256	53° 11' 4,109" N	1° 1' 59,252" E
257	53° 11' 31,621" N	1° 2' 25,520" E
258	53° 11' 59,131" N	1° 2' 51,798" E
259	53° 12' 26,640" N	1° 3' 18,084" E
260	53° 12' 54,148" N	1° 3' 44,380" E
261	53° 13' 21,654" N	1° 4' 10,686" E
262	53° 13' 49,158" N	1° 4' 37,000" E
263	53° 14' 16,661" N	1° 5' 3,324" E
264	53° 14' 44,162" N	1° 5' 29,657" E
265	53° 14' 10,501" N	1° 6' 22,744" E
266	53° 13' 36,833" N	1° 7' 15,807" E
267	53° 13' 3,158" N	1° 8' 8,847" E
268	53° 12' 29,477" N	1° 9' 1,864" E
269	53° 11' 55,788" N	1° 9' 54,857" E
270	53° 11' 22,093" N	1° 10' 47,828" E
271	53° 10' 48,391" N	1° 11' 40,775" E
272	53° 10' 14,683" N	1° 12' 33,700" E
273	53° 7' 19,882" N	1° 17' 7,608" E
274	53° 7' 12,187" N	1° 18' 5,637" E
275	53° 6' 40,142" N	1° 17' 46,074" E
276	53° 6' 8,096" N	1° 17' 26,519" E

277	53° 5' 53,359" N	1° 17' 17,530" E
278	53° 5' 36,048" N	1° 17' 6,972" E
279	53° 5' 4,000" N	1° 16' 47,433" E
280	53° 5' 3,998" N	1° 16' 47,439" E
281	53° 4' 48,834" N	1° 16' 40,042 E
282	53° 4' 23,756" N	1° 16' 27,812" E
283	53° 3' 39,216" N	1° 16' 5,715" E
284	53° 3' 4,285" N	1° 15' 45,012" E
285	53° 2' 42,819" N	1° 15' 34,383" E
286	53° 2' 18,678" N	1° 15' 22,981" E
287	53° 2' 4,608" N	1° 15' 14,913" E
288	53° 2' 1,090" N	1° 15' 12,896" E
289	53° 2' 0,211" N	1° 15' 12,392" E
290	53° 1' 59,991" N	1° 15' 12,266" E
291	53° 1' 59,771" N	1° 15' 12,140" E
292	53° 1' 59,331" N	1° 15' 11,888" E
293	53° 1' 57,573" N	1° 15' 10,880" E
294	53° 1' 50,538" N	1° 15' 6,846" E
295	53° 1' 36,320" N	1° 15' 7,829" E
296	53° 1' 32,765" N	1° 15' 8,074" E
297	53° 1' 31,876" N	1° 15' 8,136" E
298	53° 1' 31,432" N	1° 15' 8,167" E
299	53° 1' 31,321" N	1° 15' 8,174" E
300	53° 1' 31,210" N	1° 15' 8,182" E
301	53° 1' 30,988" N	1° 15' 8,197" E
302	53° 1' 29,210" N	1° 15' 8,320" E
303	53° 1' 22,101" N	1° 15' 8,812" E
304	53° 1' 9,264" N	1° 14' 55,002" E
305	53° 0' 53,523" N	1° 14' 34,350" E
306	53° 0' 37,631" N	1° 14' 15,360" E
307	53° 0' 19,626" N	1° 13' 59,138" E
308	53° 0' 4,888" N	1° 13' 45,462" E
309	52° 59' 45,135" N	1° 13' 20,396" E
310	52° 59' 8,327" N	1° 12' 31,064" E
311	52° 58' 31,514" N	1° 11' 41,754" E
312	52° 58' 3,439" N	1° 11' 1,017" E

6. The grid coordinates for that part of the authorised project comprising Work Nos. 3C, 4C, 5C, and 7C are specified below—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	53° 10' 33,834" N	1° 13' 37,234" E
2	53° 9' 56,800" N	1° 14' 32,527" E
3	53° 10' 15,091" N	1° 15' 51,276" E
4	53° 10' 33,368" N	1° 17' 10,043" E
5	53° 10' 51,630" N	1° 18' 28,829" E
6	53° 11' 9,878" N	1° 19' 47,634" E
7	53° 11' 28,112" N	1° 21' 6,458" E
8	53° 11' 46,331" N	1° 22' 25,301" E
9	53° 12' 4,536" N	1° 23' 44,163" E
10	53° 12' 22,727" N	1° 25' 3,043" E

11	53° 12' 35,764" N	1° 25' 45,404" E
12	53° 12' 13,889" N	1° 25' 43,653" E
13	53° 12' 10,720" N	1° 25' 29,896" E
14	53° 11' 51,377" N	1° 24' 6,228" E
15	53° 11' 32,018" N	1° 22' 42,581" E
16	53° 11' 12,643" N	1° 21' 18,956" E
17	53° 10' 53,251" N	1° 19' 55,352" E
18	53° 10' 33,844" N	1° 18' 31,769" E
19	53° 10' 14,420" N	1° 17' 8,207" E
20	53° 9' 54,980" N	1° 15' 44,667" E
21	53° 9' 35,524" N	1° 14' 21,148" E
22	53° 9' 4,437" N	1° 15' 9,684" E
23	53° 8' 33,344" N	1° 15' 58,201" E
24	53° 8' 2,245" N	1° 16' 46,699" E
25	53° 7' 31,141" N	1° 17' 35,177" E
26	53° 7' 12,187" N	1° 18' 5,637" E
27	53° 6' 40,142" N	1° 17' 46,074" E
28	53° 6' 8,096" N	1° 17' 26,519" E
29	53° 5' 53,359" N	1° 17' 17,530" E
30	53° 5' 36,048" N	1° 17' 6,972" E
31	53° 5' 4,000" N	1° 16' 47,433" E
32	53° 5' 3,998" N	1° 16' 47,439" E
33	53° 4' 48,834" N	1° 16' 40,042" E
34	53° 4' 23,756" N	1° 16' 27,812" E
35	53° 3' 39,216" N	1° 16' 5,715" E
36	53° 3' 4,285" N	1° 15' 45,012" E
37	53° 2' 42,819" N	1° 15' 34,383" E
38	53° 2' 18,678" N	1° 15' 22,981" E
39	53° 2' 4,608" N	1° 15' 14,913" E
40	53° 2' 1,090" N	1° 15' 12,896" E
41	53° 2' 0,211" N	1° 15' 12,392" E
42	53° 1' 59,991" N	1° 15' 12,266" E
43	53° 1' 59,771" N	1° 15' 12,140" E
44	53° 1' 59,331" N	1° 15' 11,888" E
45	53° 1' 57,573" N	1° 15' 10,880" E
46	53° 1' 50,538" N	1° 15' 6,846" E
47	53° 1' 36,320" N	1° 15' 7,829" E
48	53° 1' 32,765" N	1° 15' 8,074" E
49	53° 1' 31,876" N	1° 15' 8,136" E
50	53° 1' 31,432" N	1° 15' 8,167" E
51	53° 1' 31,321" N	1° 15' 8,174" E
52	53° 1' 31,210" N	1° 15' 8,182" E
53	53° 1' 30,988" N	1° 15' 8,197" E
54	53° 1' 29,210" N	1° 15' 8,320" E
55	53° 1' 22,101" N	1° 15' 8,812" E
56	53° 1' 9,264" N	1° 14' 55,002" E
57	53° 0' 53,523" N	1° 14' 34,350" E
58	53° 0' 37,631" N	1° 14' 15,360" E
59	53° 0' 19,626" N	1° 13' 59,138" E
60	53° 0' 4,888" N	1° 13' 45,462" E

61	52° 59' 45,135" N	1° 13' 20,396" E
62	52° 59' 8,327" N	1° 12' 31,064" E
63	52° 58' 31,514" N	1° 11' 41,754" E
64	52° 58' 3,439" N	1° 11' 1,017" E
65	52° 57' 35,361" N	1° 10' 20,295" E
66	52° 56' 54,694" N	1° 9' 27,639" E
67	52° 56' 54,694" N	1° 9' 27,604" E
68	52° 56' 54,690" N	1° 9' 27,438" E
69	52° 56' 54,680" N	1° 9' 27,273" E
70	52° 56' 54,664" N	1° 9' 27,109" E
71	52° 56' 54,643" N	1° 9' 26,945" E
72	52° 56' 54,630" N	1° 9' 26,860" E
73	52° 56' 54,631" N	1° 9' 26,827" E
74	52° 56' 54,664" N	1° 9' 25,966" E
75	52° 56' 54,694" N	1° 9' 25,197" E
76	52° 56' 54,708" N	1° 9' 24,908" E
77	52° 56' 54,755" N	1° 9' 24,108" E
78	52° 56' 54,825" N	1° 9' 22,821" E
79	52° 56' 54,902" N	1° 9' 21,380" E
80	52° 56' 54,954" N	1° 9' 20,542" E
81	52° 56' 54,988" N	1° 9' 19,874" E
82	52° 56' 55,005" N	1° 9' 19,463" E
83	52° 56' 55,021" N	1° 9' 19,228" E
84	52° 56' 55,096" N	1° 9' 18,274" E
85	52° 56' 55,133" N	1° 9' 17,756" E
86	52° 56' 55,159" N	1° 9' 17,538" E
87	52° 56' 55,187" N	1° 9' 17,240" E
88	52° 56' 55,258" N	1° 9' 16,558" E
89	52° 56' 55,336" N	1° 9' 15,883" E
90	52° 56' 55,442" N	1° 9' 14,936" E
91	52° 56' 55,566" N	1° 9' 13,609" E
92	52° 56' 55,689" N	1° 9' 12,143" E
93	52° 56' 55,724" N	1° 9' 11,700" E
94	52° 56' 55,761" N	1° 9' 11,231" E
95	52° 56' 55,789" N	1° 9' 10,675" E
96	52° 56' 55,816" N	1° 9' 10,210" E
97	52° 56' 55,838" N	1° 9' 9,767" E
98	52° 56' 55,855" N	1° 9' 9,204" E
99	52° 56' 55,878" N	1° 9' 8,627" E
100	52° 56' 55,882" N	1° 9' 8,037" E
101	52° 56' 55,885" N	1° 9' 7,479" E
102	52° 56' 55,894" N	1° 9' 6,938" E
103	52° 56' 55,906" N	1° 9' 6,520" E
104	52° 56' 55,940" N	1° 9' 5,589" E
105	52° 56' 55,960" N	1° 9' 4,555" E
106	52° 56' 55,985" N	1° 9' 3,908" E
107	52° 56' 56,007" N	1° 9' 3,035" E
108	52° 56' 56,043" N	1° 9' 2,131" E
109	52° 56' 56,081" N	1° 9' 1,281" E
110	52° 56' 56,125" N	1° 9' 0,426" E

111	52° 56' 56,138" N	1° 9' 0,083" E
112	52° 56' 56,144" N	1° 9' 0,019" E
113	52° 56' 56,142" N	1° 8' 59,955" E
114	52° 56' 56,135" N	1° 8' 59,853" E
115	52° 56' 56,120" N	1° 8' 59,728" E
116	52° 56' 56,115" N	1° 8' 59,685" E
117	52° 56' 56,113" N	1° 8' 59,636" E
118	52° 56' 56,116" N	1° 8' 59,535" E
119	52° 56' 56,126" N	1° 8' 59,396" E
120	52° 56' 56,149" N	1° 8' 59,280" E
121	52° 56' 56,156" N	1° 8' 59,130" E
122	52° 56' 56,160" N	1° 8' 59,023" E
123	52° 56' 56,159" N	1° 8' 58,921" E
124	52° 56' 56,153" N	1° 8' 58,797" E
125	52° 56' 56,149" N	1° 8' 58,711" E
126	52° 56' 56,158" N	1° 8' 58,620" E
127	52° 56' 56,166" N	1° 8' 58,567" E
128	52° 56' 56,177" N	1° 8' 58,514" E
129	52° 56' 56,199" N	1° 8' 58,436" E
130	52° 56' 56,210" N	1° 8' 58,388" E
131	52° 56' 56,221" N	1° 8' 58,336" E
132	52° 56' 56,229" N	1° 8' 58,283" E
133	52° 56' 56,234" N	1° 8' 58,224" E
134	52° 56' 56,236" N	1° 8' 58,154" E
135	52° 56' 56,232" N	1° 8' 58,084" E
136	52° 56' 56,213" N	1° 8' 57,949" E
137	52° 56' 56,196" N	1° 8' 57,851" E
138	52° 56' 56,191" N	1° 8' 57,792" E
139	52° 56' 56,190" N	1° 8' 57,727" E
140	52° 56' 56,192" N	1° 8' 57,652" E
141	52° 56' 56,200" N	1° 8' 57,578" E
142	52° 56' 56,212" N	1° 8' 57,482" E
143	52° 56' 56,230" N	1° 8' 57,392" E
144	52° 56' 56,244" N	1° 8' 57,351" E
145	52° 56' 56,255" N	1° 8' 57,303" E
146	52° 56' 56,267" N	1° 8' 57,218" E
147	52° 56' 56,273" N	1° 8' 57,122" E
148	52° 56' 56,271" N	1° 8' 56,950" E
149	52° 56' 56,256" N	1° 8' 56,751" E
150	52° 56' 56,247" N	1° 8' 56,601" E
151	52° 56' 56,242" N	1° 8' 56,536" E
152	52° 56' 56,244" N	1° 8' 56,472" E
153	52° 56' 56,260" N	1° 8' 56,361" E
154	52° 56' 56,274" N	1° 8' 56,303" E
155	52° 56' 56,285" N	1° 8' 56,239" E
156	52° 56' 56,307" N	1° 8' 56,021" E
157	52° 56' 56,320" N	1° 8' 55,647" E
158	52° 56' 56,327" N	1° 8' 55,080" E
159	52° 56' 56,337" N	1° 8' 54,834" E
160	52° 56' 56,357" N	1° 8' 54,434" E

161	52° 56' 56,378" N	1° 8' 53,980" E
162	52° 56' 56,405" N	1° 8' 53,527" E
163	52° 56' 56,442" N	1° 8' 52,977" E
164	52° 56' 56,474" N	1° 8' 52,583" E
165	52° 56' 56,485" N	1° 8' 52,402" E
166	52° 56' 56,493" N	1° 8' 52,215" E
167	52° 56' 56,496" N	1° 8' 52,018" E
168	52° 56' 56,571" N	1° 8' 50,912" E
169	52° 56' 56,607" N	1° 8' 50,422" E
170	52° 56' 56,644" N	1° 8' 49,931" E
171	52° 56' 56,682" N	1° 8' 49,441" E
172	52° 56' 56,719" N	1° 8' 48,951" E
173	52° 56' 56,755" N	1° 8' 48,460" E
174	52° 56' 56,778" N	1° 8' 48,023" E
175	52° 56' 56,793" N	1° 8' 47,584" E
176	52° 56' 56,804" N	1° 8' 47,144" E
177	52° 56' 56,821" N	1° 8' 46,705" E
178	52° 56' 56,849" N	1° 8' 46,269" E
179	52° 56' 57,031" N	1° 8' 44,094" E
180	52° 56' 57,117" N	1° 8' 43,069" E
181	52° 56' 57,183" N	1° 8' 42,274" E
182	52° 56' 57,208" N	1° 8' 42,038" E
183	52° 56' 57,216" N	1° 8' 41,942" E
184	52° 56' 57,222" N	1° 8' 41,846" E
185	52° 56' 57,222" N	1° 8' 41,826" E
186	52° 56' 57,242" N	1° 8' 41,608" E
187	52° 56' 57,243" N	1° 8' 41,601" E
188	52° 56' 57,276" N	1° 8' 41,405" E
189	52° 56' 57,304" N	1° 8' 41,209" E
190	52° 56' 57,335" N	1° 8' 40,949" E
191	52° 56' 57,367" N	1° 8' 40,652" E
192	52° 56' 57,390" N	1° 8' 40,348" E
193	52° 56' 57,409" N	1° 8' 40,076" E
194	52° 56' 57,426" N	1° 8' 39,917" E
195	52° 56' 57,434" N	1° 8' 39,811" E
196	52° 56' 57,442" N	1° 8' 39,576" E
197	52° 56' 57,443" N	1° 8' 39,487" E
198	52° 56' 57,471" N	1° 8' 39,155" E
199	52° 56' 57,517" N	1° 8' 38,578" E
200	52° 56' 57,560" N	1° 8' 37,999" E
201	52° 56' 57,601" N	1° 8' 37,421" E
202	52° 56' 57,628" N	1° 8' 36,995" E
203	52° 56' 57,651" N	1° 8' 36,569" E
204	52° 56' 57,673" N	1° 8' 36,143" E
205	52° 56' 57,696" N	1° 8' 35,716" E
206	52° 56' 57,723" N	1° 8' 35,291" E
207	52° 56' 57,756" N	1° 8' 34,877" E
208	52° 56' 57,791" N	1° 8' 34,520" E
209	52° 56' 57,805" N	1° 8' 34,405" E
210	52° 56' 57,833" N	1° 8' 34,187" E

211	52° 56' 57,854" N	1° 8' 33,996" E
212	52° 56' 57,876" N	1° 8' 33,767" E
213	52° 56' 57,909" N	1° 8' 33,475" E
214	52° 56' 57,937" N	1° 8' 33,262" E
215	52° 56' 57,958" N	1° 8' 33,060" E
216	52° 56' 57,974" N	1° 8' 32,825" E
217	52° 56' 57,988" N	1° 8' 32,547" E
218	52° 56' 57,996" N	1° 8' 32,371" E
219	52° 56' 58,009" N	1° 8' 32,099" E
220	52° 56' 58,026" N	1° 8' 31,698" E
221	52° 56' 58,053" N	1° 8' 31,164" E
222	52° 56' 58,091" N	1° 8' 30,706" E
223	52° 56' 58,128" N	1° 8' 30,178" E
224	52° 56' 58,173" N	1° 8' 29,592" E
225	52° 56' 58,219" N	1° 8' 29,048" E
226	52° 56' 58,278" N	1° 8' 28,431" E
227	52° 56' 58,343" N	1° 8' 27,669" E
228	52° 56' 58,359" N	1° 8' 27,381" E
229	52° 56' 58,372" N	1° 8' 27,216" E
230	52° 56' 58,390" N	1° 8' 26,964" E
231	52° 56' 58,392" N	1° 8' 26,912" E
232	52° 56' 58,403" N	1° 8' 26,797" E
233	52° 56' 58,398" N	1° 8' 26,780" E
234	52° 56' 57,591" N	1° 8' 23,453" E
235	52° 56' 57,607" N	1° 8' 23,312" E
236	52° 56' 57,696" N	1° 8' 22,616" E
237	52° 56' 57,819" N	1° 8' 21,510" E
238	52° 56' 58,021" N	1° 8' 19,543" E
239	52° 56' 58,156" N	1° 8' 18,267" E
240	52° 56' 58,293" N	1° 8' 16,991" E
241	52° 56' 58,371" N	1° 8' 16,290" E
242	52° 56' 58,452" N	1° 8' 15,590" E
243	52° 56' 58,533" N	1° 8' 14,889" E
244	52° 56' 58,611" N	1° 8' 14,188" E
245	52° 56' 58,684" N	1° 8' 13,438" E
246	52° 56' 58,747" N	1° 8' 12,686" E
247	52° 56' 58,808" N	1° 8' 11,957" E
248	52° 56' 58,817" N	1° 8' 11,966" E
249	52° 56' 58,840" N	1° 8' 11,992" E
250	52° 56' 59,726" N	1° 8' 12,960" E
251	52° 57' 0,102" N	1° 8' 13,371" E
252	52° 57' 8,134" N	1° 8' 22,147" E
253	52° 57' 14,357" N	1° 8' 25,824" E
254	52° 57' 22,662" N	1° 8' 28,252" E
255	52° 57' 40,113" N	1° 8' 33,188" E
256	52° 57' 42,426" N	1° 8' 35,383" E
257	52° 57' 52,102" N	1° 8' 56,636" E
258	52° 58' 16,245" N	1° 10' 2,679" E
259	52° 58' 41,839" N	1° 10' 38,668" E
260	52° 59' 7,430" N	1° 11' 14,669" E

261	52° 59' 42,249" N	1° 12' 2,219" E
262	53° 0' 17,064" N	1° 12' 49,789" E
263	53° 0' 35,405" N	1° 13' 4,931" E
264	53° 0' 57,553" N	1° 13' 25,221" E
265	53° 1' 22,451" N	1° 13' 58,051" E
266	53° 1' 27,774" N	1° 14' 5,055" E
267	53° 1' 30,435" N	1° 14' 8,557" E
268	53° 1' 31,101" N	1° 14' 9,432" E
269	53° 1' 31,267" N	1° 14' 9,651" E
270	53° 1' 31,350" N	1° 14' 9,760" E
271	53° 1' 31,433" N	1° 14' 9,870" E
272	53° 1' 31,766" N	1° 14' 10,308" E
273	53° 1' 33,097" N	1° 14' 12,058" E
274	53° 1' 43,742" N	1° 14' 26,066" E
275	53° 1' 54,320" N	1° 14' 36,758" E
276	53° 1' 59,354" N	1° 14' 39,959" E
277	53° 1' 59,983" N	1° 14' 40,359" E
278	53° 2' 0,613" N	1° 14' 40,760" E
279	53° 2' 1,871" N	1° 14' 41,560" E
280	53° 2' 4,388" N	1° 14' 43,161" E
281	53° 2' 14,457" N	1° 14' 49,564" E
282	53° 3' 4,871" N	1° 15' 12,274" E
283	53° 4' 0,089" N	1° 15' 35,690" E
284	53° 4' 23,250" N	1° 15' 46,786" E
285	53° 5' 0,996" N	1° 15' 11,113" E
286	53° 5' 20,705" N	1° 14' 48,183" E
287	53° 5' 33,957" N	1° 13' 54,955" E
288	53° 5' 47,202" N	1° 13' 1,718" E
289	53° 5' 47,266" N	1° 13' 1,677" E
290	53° 5' 47,266" N	1° 13' 1,676" E
291	53° 5' 47,540" N	1° 13' 1,498" E
292	53° 5' 47,545" N	1° 13' 1,495" E
293	53° 5' 50,444" N	1° 12' 59,604" E
294	53° 5' 50,506" N	1° 12' 59,565" E
295	53° 6' 19,018" N	1° 12' 40,975" E
296	53° 6' 19,097" N	1° 12' 40,924" E
297	53° 6' 42,962" N	1° 12' 25,364" E
298	53° 6' 43,080" N	1° 12' 25,287" E
299	53° 7' 12,739" N	1° 12' 5,962" E
300	53° 7' 42,397" N	1° 11' 46,630" E
301	53° 7' 49,968" N	1° 11' 41,694" E
302	53° 8' 12,055" N	1° 11' 27,290" E
303	53° 8' 41,711" N	1° 11' 7,942" E
304	53° 8' 41,717" N	1° 11' 7,938" E
305	53° 8' 49,191" N	1° 11' 3,065" E
306	53° 8' 49,206" N	1° 11' 3,056" E
307	53° 8' 57,559" N	1° 10' 57,610" E
308	53° 8' 57,564" N	1° 10' 57,607" E
309	53° 8' 58,833" N	1° 10' 56,779" E
310	53° 8' 58,859" N	1° 10' 56,762" E

311	53° 9' 10,110" N	1° 10' 9,689" E
312	53° 9' 21,357" N	1° 9' 22,609" E
313	53° 9' 32,598" N	1° 8' 35,522" E
314	53° 9' 43,834" N	1° 7' 48,428" E
315	53° 9' 55,065" N	1° 7' 1,328" E
316	53° 10' 6,290" N	1° 6' 14,221" E
317	53° 10' 17,511" N	1° 5' 27,107" E
318	53° 10' 28,726" N	1° 4' 39,986" E
319	53° 10' 46,425" N	1° 3' 19,628" E
320	53° 11' 4,109" N	1° 1' 59,252" E
321	53° 11' 31,621" N	1° 2' 25,520" E
322	53° 11' 59,131" N	1° 2' 51,798" E
323	53° 12' 26,640" N	1° 3' 18,084" E
324	53° 12' 54,148" N	1° 3' 44,380" E
325	53° 13' 21,654" N	1° 4' 10,686" E
326	53° 13' 49,158" N	1° 4' 37,000" E
327	53° 14' 16,661" N	1° 5' 3,324" E
328	53° 14' 44,162" N	1° 5' 29,657" E
329	53° 14' 10,501" N	1° 6' 22,744" E
330	53° 13' 36,833" N	1° 7' 15,807" E
331	53° 13' 3,158" N	1° 8' 8,847" E
332	53° 12' 29,477" N	1° 9' 1,864" E
333	53° 11' 55,788" N	1° 9' 54,857" E
334	53° 11' 22,093" N	1° 10' 47,828" E
335	53° 10' 48,391" N	1° 11' 40,775" E
336	53° 10' 14,683" N	1° 12' 33,700" E
337	53° 11' 24,043" N	1° 12' 55,421" E
338	53° 12' 33,402" N	1° 13' 17,161" E
339	53° 13' 42,760" N	1° 13' 38,920" E
340	53° 14' 52,117" N	1° 14' 0,698" E
341	53° 16' 1,472" N	1° 14' 22,495" E
342	53° 17' 10,827" N	1° 14' 44,310" E
343	53° 18' 20,180" N	1° 15' 6,145" E
344	53° 19' 29,532" N	1° 15' 27,998" E
345	53° 20' 0,390" N	1° 14' 40,388" E
348	53° 19' 41,748" N	1° 17' 0,577" E
349	53° 18' 56,531" N	1° 16' 15,330" E
350	53° 17' 53,698" N	1° 15' 55,514" E
351	53° 16' 50,863" N	1° 15' 35,713" E
352	53° 15' 48,027" N	1° 15' 15,928" E
353	53° 14' 45,190" N	1° 14' 56,158" E
354	53° 13' 42,353" N	1° 14' 36,404" E
355	53° 12' 39,514" N	1° 14' 16,665" E
356	53° 11' 36,675" N	1° 13' 56,942" E
DEP North		
A.01	53° 19' 31,548" N	1° 13' 30,141" E
A.02	53° 19' 2,699" N	1° 12' 19,932" E
A.03	53° 19' 34,347" N	1° 11' 47,739" E
A.04	53° 20' 5,992" N	1° 11' 15,533" E
A.05	53° 20' 37,635" N	1° 10' 43,313" E

A.06	53° 21' 9,275" N	1° 10' 11,081" E
A.07	53° 21' 9,340" N	1° 11' 6,237" E
A.08	53° 21' 9,399" N	1° 12' 1,393" E
A.09	53° 21' 9,451" N	1° 12' 56,550" E
A.10	53° 21' 9,495" N	1° 13' 51,706" E
A.11	53° 21' 9,533" N	1° 14' 46,863" E
A.12	53° 21' 9,563" N	1° 15' 42,020" E
A.13	53° 21' 9,584" N	1° 16' 30,130" E
A.14	53° 21' 9,602" N	1° 17' 32,335" E
A.15	53° 20' 46,340" N	1° 18' 7,238" E
A.16	53° 20' 58,886" N	1° 18' 37,507" E
A.17	53° 21' 16,936" N	1° 18' 58,324" E
A.18	53° 21' 24,406" N	1° 19' 46,805" E
A.19	53° 21' 27,180" N	1° 20' 4,816" E
A.20	53° 21' 37,414" N	1° 21' 11,318" E
A.21	53° 21' 47,638" N	1° 22' 17,828" E
A.22	53° 21' 57,851" N	1° 23' 24,348" E
A.23	53° 21' 25,995" N	1° 23' 42,880" E
A.24	53° 20' 54,139" N	1° 24' 1,404" E
A.25	53° 20' 5,326" N	1° 24' 0,033" E
A.26	53° 19' 36,128" N	1° 24' 8,276" E
A.27	53° 19' 9,827" N	1° 24' 23,580" E
A.28	53° 18' 34,113" N	1° 25' 3,960" E
A.29	53° 18' 17,503" N	1° 25' 24,511" E
A.30	53° 18' 0,222" N	1° 25' 39,259" E
A.31	53° 17' 15,148" N	1° 26' 5,612" E
A.32	53° 17' 35,036" N	1° 25' 24,340" E
A.33	53° 17' 54,920" N	1° 24' 43,056" E
A.34	53° 18' 14,801" N	1° 24' 1,762" E
A.35	53° 18' 34,677" N	1° 23' 20,458" E
A.36	53° 18' 35,113" N	1° 22' 55,059" E
A.37	53° 18' 9,353" N	1° 22' 14,077" E
A.38	53° 18' 55,523" N	1° 20' 33,698" E
A.39	53° 18' 18,216" N	1° 19' 28,603" E
A.40	53° 18' 23,044" N	1° 19' 18,170" E
A.41	53° 16' 40,497" N	1° 19' 9,998" E
A.42	53° 17' 29,099" N	1° 18' 30,623" E
A.43	53° 18' 17,849" N	1° 17' 51,100" E
A.44	53° 18' 52,654" N	1° 17' 33,836" E
A.45	53° 19' 27,459" N	1° 17' 16,563" E
DEP South		
B.01	53° 14' 5,405" N	1° 25' 52,576" E
B.02	53° 13' 44,764" N	1° 27' 26,148" E
B.03	53° 13' 21,538" N	1° 28' 1,214" E
B.04	53° 12' 58,309" N	1° 28' 36,270" E
B.05	53° 12' 35,077" N	1° 29' 11,315" E
B.06	53° 12' 11,842" N	1° 29' 46,349" E
B.07	53° 11' 48,603" N	1° 30' 21,373" E
B.08	53° 11' 25,362" N	1° 30' 56,387" E
B.09	53° 11' 2,118" N	1° 31' 31,390" E

B.10	53° 10' 38,872" N	1° 32' 6,382" E
B.11	53° 10' 16,470" N	1° 31' 10,439" E
B.12	53° 9' 54,062" N	1° 30' 14,512" E
B.13	53° 9' 31,646" N	1° 29' 18,602" E
B.14	53° 9' 9,223" N	1° 28' 22,708" E
B.15	53° 9' 18,541" N	1° 27' 23,002" E
B.16	53° 9' 42,205" N	1° 26' 28,216" E
B.17	53° 10' 5,861" N	1° 25' 33,413" E
B.18	53° 12' 11,085" N	1° 25' 43,428" E

7. This marine licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

8. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence apply only to a transfer not falling within article 5 (benefit of order) of the Order.

9.—(1) With respect to any condition which requires the licensed activities be carried out in accordance with the details, plans or schemes approved under this marine licence, the approved details, plans or schemes are taken to include any amendments that may subsequently be approved in writing by the MMO.

(2) Any amendments to or variations from the approved details, plans or schemes must be in accordance with the principles and assessments set out in the environmental statement and approval of an amendment or variation may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

10. Should the undertaker become aware that any of the information on which the granting of this marine licence was based was materially false or misleading, the undertaker must notify the MMO of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information.

PART 2

Conditions

Design parameters

Offshore Substation Platform

1.—(1) The dimensions of the offshore substation platform in Work No. 3A or 3C (excluding towers, masts and cranes) must not exceed—

- (a) 70 metres in length;
- (b) 40 metres in width; or
- (c) 50 metres in height above HAT.

(2) Offshore substation platform foundation in Work No. 3A or 3C must be of one of the following foundation options: piled jacket or suction bucket jacket.

(3) The offshore substation platform foundation in Work No. 3A or 3C must not—

- (a) have more than four legs;

- (b) have more than eight piles;
- (c) have a pile diameter exceeding 3.5 metres;
- (d) employ a hammer energy during installation exceeding 3,000 kilojoules;
- (e) have a seabed footprint (excluding subsea scour protection) exceeding 452 square metres; or
- (f) have a seabed footprint (including subsea scour protection) exceeding 4761 square metres.

(4) The total amount of scour protection for the offshore substation platform in Work No. 3A or 3C must not exceed 4054 square metres.

(5) The total volume of scour protection for the offshore substation platform in Work No. 3A or 3C must not exceed 7297 cubic metres.

Cables and cable protection

2.—(1) In the event of scenario 1, scenario 2 or scenario 3, within Work Nos. 3A to 5A, the offshore export cables must not, in total—

- (a) exceed one in number;
- (b) exceed 40 kilometres in length;
- (c) exceed four cable crossings;
- (d) have cable protection (including cable crossings) exceeding 9,504 square metres in area; or
- (e) have cable protection (including cable crossings) exceeding 6885 cubic metres in volume.

(2) In the event of scenario 4 within Work Nos. 3C to 5C, the offshore export cables must not, in total—

- (a) exceed two in number;
- (b) exceed 80 kilometres in length;
- (c) exceed eight cable crossings;
- (d) have cable protection (including cable crossings) exceeding 16,008 square metres in area; or
- (e) have cable protection (including cable crossings) exceeding 12,645 cubic metres in volume.

(3) In the event of scenario 4, within Work Nos. 4C the interlink cables must not, in total—

- (a) exceed seven in number;
- (b) exceed 154 kilometres in length;
- (c) exceed six cable crossings;
- (d) have cable protection (including cable crossings) exceeding 12,708 square metres in area; or
- (e) have cable protection (including cable crossings) exceeding 3396 cubic metres in volume.

Scenarios and Phases of authorised project

3.—(1) The authorised project must not be commenced until a notification has been submitted to the MMO as to whether the undertaker intends to commence scenario 1, scenario 2, scenario 3 or scenario 4.

(2) The notification required under sub-paragraph (1) must be submitted to the MMO prior to submission of the written scheme to be submitted for approval under sub-paragraph (3).

(3) The authorised project must not be commenced until a written scheme setting out (with regards to the relevant scenario notified under sub-paragraph (1)) the phases of construction of the authorised project has been submitted to and approved in writing by the MMO.

(4) Any subsequent amendments to the written scheme submitted for approval under sub-paragraphs (3) must be submitted to, and approved by, the MMO.

(5) The written scheme submitted for approval under sub-paragraphs (3) must be implemented as approved. The approved details shall be taken to include any amendment that may subsequently be approved in accordance with sub-paragraph (4).

Vessels under the undertaker's control

4. The undertaker must issue to operators of vessels under the undertakers control operating within the Order limits a code of conduct to reduce risk of injury to marine mammals.

Extension of time periods

5. Any time period given in this marine licence to either the undertaker or the MMO may be extended with the agreement of the other party, such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

6.—(1) The undertaker must ensure that—

(a) a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—

(i) all agents and contractors notified to the MMO in accordance with condition 16;

(ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 16; and

(b) within 28 days of receipt of a copy of this marine licence and any subsequent amendments or revisions to it, those persons referred to in sub-paragraph (1)(a) must confirm receipt of this marine licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 16 are permitted to carry out the licensed activities.

(3) Copies of this marine licence must also be available for inspection at the following locations—

(a) the undertaker's registered address;

(b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and

(c) on board each vessel and at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3).

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised project.

(6) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licensed activity.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details of the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—

- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data;
- (b) on completion of construction of all offshore activities,

and confirmation of notification must be provided to the MMO within five days.

(8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised project or any part thereof advising of the start date of each of Work Nos. 3A, 4A, 5A, 6A and 7A in the event of scenario 1, scenario 2 or scenario 3 or 3C, 4C, 5C, 6C and 7C in the event of scenario 4 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.

(9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations (or otherwise agreed) and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme and monitoring plan approved under condition 22(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify UKHO of:—

- (a) commencement of the licensed activities at least ten working days prior to commencement; and
- (b) completion (within fourteen days) of the authorised project or any part thereof
in order that all necessary amendments to nautical charts are made. Copies of all notices must be provided to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised project or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and UKHO.

(12) In case of the exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of Seafish of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, and UKHO within five days.

Aids to navigation

7.—(1) The undertaker must during the whole of the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as Trinity House may from time to time direct.

(2) The undertaker must during the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project keep Trinity House and the MMO informed of progress of the authorised project including—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 12(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the period from commencement of the licensed activities to completion of decommissioning of the authorised project notify Trinity House and the MMO of any failure of the aids to navigation, and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 6(11) and condition 6(12) are invoked the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of structures

8. Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised project yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House. Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures grey (colour code RAL 7035).

Aviation safety

9.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by the Air Navigation Order 2016 and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the authorised project, in writing of the following information—

- (a) the date of the commencement of construction of the authorised project;
- (b) the date any offshore substation platforms are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum height of each offshore substation platform to be constructed;
- (e) the latitude and longitude of each offshore substation platform to be constructed;

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised project. Copies of notifications must be provided to the MMO within five days.

Chemicals, drilling and debris

10.—(1) Unless otherwise agreed in writing by the MMO, the carriage and use of chemicals in the construction of the authorised project must comply with the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110 percent of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO in writing of the location and quantities of material disposed of each month under this marine licence by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during pre-sweeping sandwave clearance where relevant, the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost below MHWS, the undertaker must report the loss in writing to the local enforcement office within 24 hours and if the MMO, in consultation with the MCA and Trinity House, reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must, in that event, demonstrate to the MMO that reasonable attempts have been made to locate, remove or move any such material.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 12(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

11. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

Pre-construction plans and documentation

12.—(1) The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO, in consultation with Trinity House, the MCA and UKHO as appropriate—

- (a) a plan prepared in accordance with the layout commitments setting out proposed details of the authorised project, including the:
 - (i) number, dimensions, specification, foundation type(s) and depth for each wind turbine generator, offshore platform and substation;
 - (ii) the grid coordinates of the centre point of the proposed location for each wind turbine generator, platform and substation;
 - (iii) proposed layout of all cables;
 - (iv) location and specification of all other aspects of the authorised project; and
 - (v) any exclusion zones or micro-siting requirements identified pursuant to 12(1)(f)(v) or relating to any benthic habitats of conservation, ecological or economic importance constituting Annex I reef habitats identified as part of surveys undertaken in accordance with condition 17;

to ensure conformity with the description of Work Nos. 3A to 5A and 7A or 3C to 5C and 7C and compliance with conditions 1 and 2;

- (b) a construction programme and monitoring plan (which accords with the offshore in principle monitoring plan) which, save in respect information submitted pursuant to subparagraph (b)(iii)(aa), is to be submitted to the MMO at least six months prior to commencement of licensed activities and to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works;
 - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction surveys and monitoring and related reporting in accordance with conditions 17, 18 and 19 to be submitted to the MMO in accordance with the following (unless otherwise agreed in writing with the MMO)—
 - (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed pre-construction monitoring;
 - (bb) at least four months prior to construction, detail on construction monitoring; and
 - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;
 - (iv) an indicative written construction programme for all offshore substation platforms and cables including fibre optic cables comprised in the works at Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above),
- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
 - (i) cable specification, installation and monitoring for cables located outside of the Cromer Shoal Chalk Beds Marine Conservation Zone to include—
 - (aa) the technical specification of cables below MHWS;
 - (bb) a detailed cable laying plan for the authorised project, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5 percent of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5 percent of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
 - (cc) proposals for monitoring cables including cable protection until the authorised project is decommissioned which includes a risk-based approach to the management of unburied or shallow buried cables;
 - (ii) scour protection and cable protection including details of the need, type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
 - (iii) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph (1)(i);
 - (iv) advisory safe passing distances for vessels around construction sites;
 - (v) contractors;
 - (vi) vessels and vessel transit corridors;
 - (vii) associated ancillary works; and
 - (viii) guard vessels to be employed;

- (d) a project environmental management plan (in accordance with the outline project environmental management plan) covering the period of construction and operation to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised project in relation to all activities carried out;
 - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 4 and to address the interaction of the licensed activities with fishing activities; and
 - (vi) procedures, which must be adopted within vessel transit corridors to minimise disturbance to red-throated diver during the period 1 November to 31 March (inclusive), which must be in accordance with the best practice protocol for minimising disturbance to red throated diver;
 - (vii) a code of conduct for vessel operators to reduce risk of injury to mammals;
- (e) a cable specification, installation and monitoring plan for the installation of cables within the Cromer Shoal Chalk Beds Marine Conservation Zone (in accordance with the outline Cromer Shoal Chalk Beds Marine Conservation Zone cable specification, installation and monitoring plan);
- (f) an archaeological written scheme of investigation in relation to the offshore Order limits seaward of MHWS, which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
 - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS ('Online Access to the Index of archaeological investigations') form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;
- (g) an offshore operations and maintenance plan (in accordance with the outline offshore operations and maintenance plan), to be submitted to the MMO at least six months prior

to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;

- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House specifying how the undertaker will ensure compliance with condition 7 from the commencement of construction of the authorised project to the completion of decommissioning;
- (i) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies, to be submitted to the MMO at least six months prior to commencement of licensed activities;
- (j) a mitigation scheme for any benthic habitats of conservation, ecological and/or economic importance constituting Annex I reef habitats and including the designated features of the MCZ identified by the survey referred to in condition 17(4)(a) and in accordance with the offshore in principle monitoring plan;
- (k) an ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances to be submitted to the MMO at least six months prior to commencement of licensed activities; and
- (l) a navigation management plan to manage crew transfer vessels (including daughter craft) during the construction and operation of the authorised project.

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline written scheme of investigation (offshore)) which has been submitted to and approved by the MMO.

Site Integrity Plan

13.—(1) No piling activities can take place until a Site Integrity Plan (“SIP”), which accords with the principles set out in the in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (“SNS SAC”) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted in writing to the MMO no later than six months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the preconstruction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.

14.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 12 must be submitted for approval at least four months before the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The MMO must determine an application for approval made under conditions 12 and 13 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(3) The licensed activities must be carried out in accordance with the plans, protocols, statements, schemes and details approved under conditions 12 and 13, unless otherwise agreed in writing by the MMO.

Offshore safety management

15. No part of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it) and its annexes.

Reporting of engaged agents, contractors and vessels

16. —(1) The undertaker must provide the following information in writing to the MMO—

- (a) the name, function, company number (if applicable), registered or head office address (as appropriate) of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) The undertaker must notify the MMO in writing of any vessel being used to carry on any licensed activity listed in this marine licence on behalf of the undertaker. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity. Notification must include the master’s name, vessel type, vessel IMO number and vessel owner or operating company

(3) Any changes to the supplied details must be notified to the MMO in writing at least 24 hours before the agent, contractor or vessel engages in the licensed activities.

Pre-construction monitoring and surveys

17. —(1) The undertaker must, in discharging condition 12(1)(b), submit a monitoring plan or plans in accordance with the offshore in principle monitoring plan for written approval in writing by the MMO in consultation with the relevant statutory nature conservation body, which must contain details of proposed monitoring and surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report.

(2) The survey proposals submitted under sub-paragraph (1) must be in general accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The baseline report proposals submitted under sub-paragraph (1) must ensure that the outcome of the agreed surveys, together with existing data and reports, are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(4) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1

reef habitats in the parts of the Order limits in which it is proposed to carry out construction works;

- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works;
- (c) undertake or contribute to any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 12(1)(i); and
- (d) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 12(1)(k).

(5) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Construction monitoring and surveys

18.—(1) The undertaker must, in discharging condition 12(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring and surveys, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(3) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) The results of the initial noise measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the reasonable opinion of the MMO in consultation with the relevant statutory nature conservation body, the assessment shows significantly different impacts to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(5) The undertaker must carry out the surveys specified in the construction monitoring plan in accordance with that plan, including any further noise monitoring required in writing by the MMO under sub-paragraph (4), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(6) Construction monitoring must include vessel traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring at the end of each year of the construction period to the MMO, MCA and Trinity House.

(7) In the event that piled foundations are proposed to be used, the details submitted in accordance with the marine mammal mitigation protocol must include proposals for monitoring marine mammals.

Post-construction monitoring and surveys

19.—(1) The undertaker must, in discharging condition 12(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of proposed post-construction monitoring and surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results.

(2) The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to—

- (a) undertake an appropriate survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) undertake, within twelve months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected;
- (c) undertake any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 12(1)(k);
- (d) undertake post-construction traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring to the MMO, the MCA and Trinity House;
- (e) undertake or contribute to any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 12(1)(i); and
- (f) undertake monitoring of cables installed within the Cromer Shoal Chalk Beds MCZ in accordance with any monitoring required by the cable specification, installation and monitoring plan for the installation of cables within the Cromer Shoal Chalk Beds Marine Conservation Zone submitted in accordance with condition 12(1)(e).

(4) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(5) Following installation of cables, the cable monitoring plans required under conditions 12(1)(c) and 12(1)(e) must be updated with the results of the post installation surveys. The plans must be implemented until the authorised scheme is decommissioned and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

(6) In the event that the reports provided to the MMO under sub-paragraph (4) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with the MMO in writing and implemented as agreed.

~~(6)~~(7) In the event that the reports provided to the MMO under sub-paragraph (4) identify that there are significant adverse effects post-mitigation, the Applicant shall notify the MMO and the relevant ANCBs of this in writing with a view to agreeing to a course of adaptive management/mitigation to reduce such effects. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent. Any such agreed or approved adaptive management/mitigation should be implemented in full to a timetable first agreed in writing with the MMO.

Reporting of scour and cable protection

20.—(1) Not more than four months following completion of the construction of the authorised project, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the authorised project.

(2) The report must include the following information—

- (a) the location of cable protection and scour protection;
- (b) the volume of cable protection and scour protection; and

- (c) any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker. Completion of construction

21.—(1) The undertaker must submit a close out report to the MMO, the MCA, Trinity House, UKHO and the relevant statutory nature conservation body within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include details of the latitude and longitude co-ordinates of the export cables, provided as Geographical Information System data referenced to WGS84 datum.

(2) Following completion of construction, no further construction activities can be undertaken under this marine licence.

Sediment Sampling

22.—(1) The undertaker must submit a sample plan request in writing to the MMO for written approval of a sample plan.

(2) The sample plan request must be made—

- (a) or capital dredging, at least six months prior to the commencement of any capital dredging; or
- (b) for maintenance dredging, at least six months prior to the end of every third year from the date of the previous sediment sample analysis.

(3) The sample plan request must include details of—

- (a) the volume of material to be dredged;
- (b) the location of the area to be dredged;
- (c) details of the material type proposed for dredging;
- (d) the type and dredging methodology (including whether it is a capital or maintenance dredge, depth of material to be dredged and proposed programme for the dredging activities); and
- (e) the location and depth of any supporting samples.

(4) Unless otherwise agreed by the MMO, the undertaker must undertake the sampling in accordance with the approved sample plan.

Collaboration

23.—(1) Prior to submission of plans and documentation required to be submitted to the MMO for approval in accordance with conditions 12 and 13, the undertaker must provide a copy of the relevant plans and documentation to DEL to enable DEL to provide any comments on the plans and documentation to the undertaker.

(2) The plans and documentation submitted to the MMO for approval in accordance with conditions 12 and 13 must be accompanied by any comments received by the undertaker from DEL in accordance with sub-paragraph (1) or a statement from the undertaker confirming that no such comments were received.

Seasonal Restriction

24.—(1) The undertaker must not carry out any cable installation works within the GW during the winter period.

(2) For the purpose of this condition—

“the GW” means the site designated as the Greater Wash Special Protection Area;

“winter period” means the period between 1 November to 31 March inclusive.

Obstacle free zone for navigational safety

25.—(1) No infrastructure of any type included within the offshore works, including wind turbine generators and offshore substation platforms, shall be installed within the area defined by the coordinates as specified below and no part of any wind turbine generator, including its blades,

may overfly into the area:

<u>Point ID of the area</u>	<u>Latitude (D°M.MM')</u>	<u>Longitude (D°M.MM')</u>
<u>A (NW corner)</u>	<u>53° 21.1541' N</u>	<u>1° 10.1853' E</u>
<u>B (SW corner)</u>	<u>53° 19.0449' N</u>	<u>1° 12.3327' E</u>
<u>C (NE corner)</u>	<u>53° 21.1558' N</u>	<u>1° 11.8346' E</u>
<u>D (SE corner)</u>	<u>53° 19.5696' N</u>	<u>1° 13.6102' E</u>

Marine Licence 4: Dudgeon Extension Project Offshore Transmission –
Work Nos. 3B to 7B or 3C to 7C

PART 1

Licensed marine activities

Interpretation

1.—(1) In this marine licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this marine licence;

“authorised project” means Work Nos. 3B to 7B (in the event of scenario 1, scenario 2 or scenario 3) or 3C to 7C (in the event of scenario 4) and the further associated development described in paragraph 3 of Part 1 of this marine licence or any part of those works or development;

“buoy” means any floating device used for navigational purposes or measurement purposes including LiDAR buoys, wave buoys and guard buoys;

“cable” includes cables for the transmission of electricity and fibre-optic cables;

“cable crossing” means the crossing of existing subsea cables and pipelines by the array, inter-array or export cables authorised by the Order and forming part of the authorised project together with physical protection measures including cable protection;

“cable protection” means measures to protect cables forming part of the authorised project from physical damage and exposure due to loss of seabed sediment including, but not limited to, rock placement, mattresses with or without frond devices, protective aprons or coverings, bagged solutions filled with sand, rock, grout or other materials and protective shells;

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction monitoring surveys approved under this marine licence, and “commenced” and “commencement” must be construed accordingly;

“commercial operation” means in relation to any part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

“Cromer Shoal Chalk Beds MCZ” means the Marine Conservation Zone designated by the Secretary of State under the Cromer Shoal Chalk Beds Marine Conservation Zone Designation Order 2016;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL and any successor body to its functions;

“DEL” means Dudgeon Extension Limited, company number 12148301, whose registered office is at 1 Kingdom Street, London W2 6BD;

“DEP North” means the array extension area located to the north of DOW;

“DEP South” means the array extension area located to the south of DOW;

“DOW” means the Dudgeon Offshore Wind Farm;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“Dudgeon Extension Project” means the Dudgeon Extension Project offshore works and the Dudgeon Extension Project onshore works;

“Dudgeon Extension Project offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1B to 7B and any other authorised development associated with those works; or
- (b) in the event of scenario 4, Work Nos. 1B, 2B, the integrated offshore works and any other authorised development associated with those works;

“Dudgeon Extension Project onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8B to 14B, the scenario 3 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;
- (c) in the event of scenario 4, Work Nos. 10B, 11B, 13B, 14B, the scenario 4 integrated onshore works, Work Nos. 18B to 22B, and any other authorised development associated with those works;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“gravity base structure foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast, skirts or other additional fixings, and associated equipment including scour protection, J-tubes, corrosion protection systems, access platforms and equipment and separate topside connection structures or integrated transition pieces;

“HAT” means highest astronomical tide;

“HDD” or “horizontal direction drilling” refers to a trenchless technique for installing cables and cable ducts involving drilling in an arc between two points;

“HVAC” means high voltage alternating current;

“in-field cable” means a subsea cable linking two or more offshore structures;

“in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation” means the document certified as the in-principle Site Integrity Plan for the Southern North Sea Special Area of Conservation by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“integrated offshore substation platform” means a single offshore substation platform to be constructed and operated for the benefit of both SEL and DEL;

“integrated offshore works” means Work Nos. 3C, 4C, 5C, 6C and 7C;

“interlink cable” means a subsea cable linking two offshore areas;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as J-tubes, corrosion protection systems and access platforms;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“joint bay” means an excavation located at regular intervals along the cable route consisting of a concrete flat base slab constructed beneath the ground to facilitate the jointing together of the cables;

“LAT” means lowest astronomical tide;

“land plans” means the plans certified as the land plans by the Secretary of State under article 38 of the Order;

“layout commitments” means the layout commitments contained within the navigation risk assessment at appendix 13.1 of the environmental statement;

“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” means the body created under the 2009 Act which is responsible for the regulation of this marine licence or any successor of that function and “MMO” shall be construed accordingly;

“MCA” means the Maritime and Coastguard Agency, the executive agency of the Department for Transport;

“MCMS” means the Marine Case Management System web portal provided and operated by the MMO;

“MHWS” or “mean high water springs” means the highest level that spring tides reach on average over a period of time;

“MLWS” or “mean low water springs” means the lowest level that spring tides reach on average over a period of time;

“monopile foundation” means a steel pile driven or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“offshore order limits and grid coordinates plan” means the plans certified as the offshore order limits and grid coordinates plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“offshore substation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad, containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marking and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

“offshore works” means:—

- (a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A, 1B to 7B and any other authorised development associated with those works;
- (b) in the event of scenario 4, Work Nos. 1A, 1B, 2A, 2B, the integrated offshore works, and any other authorised development associated with those works;

“onshore works” means:—

- (a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A, Work Nos. 8B to 22B and any other authorised development associated with those works; or
- (b) in the event of scenario 3, Work Nos. 8A to 14A, 8B to 14B, the scenario 3 integrated onshore works, 18A to 22A, 18B to 22B and any other authorised development associated with those works; or
- (c) in the event of scenario 4, Work Nos. 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A and 18B to 22B, the scenario 4 integrated onshore works and any other authorised development associated with those works;

“Order” means The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 20[];

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the offshore order limits and grid coordinates plans within which the authorised project may be carried out and the grid coordinates for Work Nos. 3B, 4B, 5B and 7B are set out in paragraph 5 of Part 1 of this marine licence and the grid coordinates for Work Nos. 3C, 4C, 5C and 7C are set out in paragraph 6 of Part 1 of this marine licence;

“outline Cromer Shoal Chalk Beds Marine Conservation Zone cable specification, installation and monitoring plan” means the document certified as the cable specification, installation and monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline marine traffic monitoring plan” means the document certified as the outline marine traffic monitoring plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, flow energy dissipation devices and rock and gravel placement;

“SEL” means Scira Extension Limited, company number 12239260, whose registered office is at 1 Kingdom Street, London W2 6BD;

“scenario 1” means each generating station will be constructed in any one of the following ways:—

- (a) the construction of the Sheringham Shoal Extension Project only where the Dudgeon Extension Project does not proceed to construction;
- (b) the construction of the Dudgeon Extension Project only where the Sheringham Shoal Extension Project does not proceed to construction;
- (c) sequential construction where the Sheringham Shoal Extension Project is constructed first then the Dudgeon Extension Project is constructed second or vice versa; or

(d) concurrent construction of the Sheringham Shoal Extension Project and the Dudgeon Extension Project;

“scenario 2” means a sequential construction scenario in which either the Sheringham Shoal Extension Project is constructed first and SEL installs the ducts for the Dudgeon Extension Project or the Dudgeon Extension Project is constructed first and DEL installs the ducts for the Sheringham Shoal Extension Project;

“scenario 3” means:—

(a) sequential or concurrent construction of Work Nos. 1A to 14A, 18A to 22A, 1B to 14B, 18B to 22B; and

(b) construction of the scenario 3 integrated onshore works;

“scenario 3 integrated onshore works” means Work Nos. 15C to 17C;

“scenario 4” means:—

(a) sequential or concurrent construction of Work Nos. 1A, 1B, 2A, 2B, 10A, 10B, 11A, 11B, 13A, 13B, 14A, 14B, 18A to 22A, 18B to 22B; and

(b) construction of the integrated offshore works and the scenario 4 integrated onshore works;

“scenario 4 integrated onshore works” means Work Nos. 8C, 9C, 12C, 15C, 16C and 17C;

“Sheringham Shoal Extension Project” means the Sheringham Shoal Extension Project onshore works and the Sheringham Shoal Extension Project offshore works;

“Sheringham Shoal Extension Project offshore works” means:—

(a) in the event of scenario 1, scenario 2 or scenario 3, Work Nos. 1A to 7A and any authorised development associated with those works; or

(b) in the event of scenario 4, Work Nos. 1A, 2A, the integrated offshore works and any other authorised development associated with those works;

“Sheringham Shoal Extension Project onshore works” means:—

(a) in the event of scenario 1 or scenario 2, Work Nos. 8A to 22A and any other authorised development associated with those works; or

(b) in the event of scenario 3, Work Nos. 8A to 14A, the scenario 3 integrated onshore works, 18A to 22A and any other authorised development associated with those works; or

(c) in the event of scenario 4, Work Nos. 10A, 11A, 13A, 14A, the scenario 4 integrated onshore works, 18A to 22A and any other authorised development associated with any of those works;

“statutory historic body” means Historic England or its successor in function;

“statutory nature conservation body” means an organisation charged by the government with advising on nature conservation matters;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket or monopile foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UKHO” means the United Kingdom Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Dudgeon Extension Limited, company number 12148301, whose registered office is at 1 Kingdom Street, London W2 6BD;

“VHF” means very high frequency;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or

adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, a rotor with three blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation;

“works plans” means the works plans (offshore) and the works plans (onshore);

“works plans (offshore)” means the plans certified as the works plans (offshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order; and

“works plans (onshore)” means the plans certified as the works plans (onshore) by the Secretary of State under article 38 (certification of documents and plans, etc.) of the Order.

(2) In this marine licence, a reference to any statute, order, regulation or similar instrument is a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) In this marine licence, unless otherwise indicated—

(a) all times are Greenwich Mean Time (“GMT”);

(b) all coordinates are latitude and longitude degrees and minutes to two decimal places.

(4) Unless otherwise stated or agreed with the MMO, all submissions, notifications and communications must be sent by the undertaker to the MMO using MCMS. Except where otherwise notified in writing by the relevant organisation, the addresses for correspondence for the purposes of this marine licence are—

(a) Historic England

Brooklands

24 Brooklands Avenue

Cambridge

CB2 8BU

Tel: 01223 582749

Email: eastofengland@historicengland.org.uk

(b) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle upon Tyne

NE4 7YH

Email: marine.consents@marinemanagement.org.uk

Tel: 0300 123 1032

(c) Marine Management Organisation (local office)

Lowestoft Office

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Email: lowestoft@marinemanagement.org.uk

Tel: 02080266094

- (d) Marine Management Organisation
 Marine Pollution Response Team
 Tel. (during office hours): 0300 200 2024,
 Tel. (outside office hours): 07770 977 825 or 0845 051 8486
 Email: dispersants@marinemangement.org.uk
- (e) Maritime and Coastguard Agency
 UK Technical Services Navigation
 Spring Place
 105 Commercial Road
 Southampton
 SO15 1EG
 Tel: 020 3817 2554
- (f) Natural England
 Foss House
 Kings Pool
 1-2 Peasholme Green
 York
 YO1 7PX
 Tel: 0300 060 4911
- (g) Trinity House
 Tower Hill
 London
 EC3N 4DH
 Tel: 020 7481 6900
- (h) United Kingdom Hydrographic Office
 Admiralty Way
 Taunton
 Somerset
 TA1 2DN
 Tel: 01823 337 900

Details of licensed marine activities

2. Subject to the conditions this marine licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and objects specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works or cable works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this marine licence during pre-construction, construction and operation;
- (e) site clearance and preparation works including debris, boulder clearance and the removal of out of service cables and static fishing equipment; and
- (f) the disposal of up to 145,325 cubic metres of inert material of natural origin within the Order limits produced during construction drilling or seabed preparation for foundation

works and cable works and boulder clearance works at disposal site references to be provided to the MMO within the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 3B—in the event of scenario 1, scenario 2 or scenario 3, an offshore substation platform fixed to the seabed by either piled jacket or suction bucket jacket foundations within the area shown on the works plans; or

Work No. 3C—in the event of scenario 4, an integrated offshore substation platform fixed to the seabed by either piled jacket or suction bucket jacket foundations within the area shown on the works plans;

Work No. 4B—in the event of scenario 1, scenario 2 or scenario 3—

- (a) interlink cables between DEP North and DEP South within the areas shown on the works plans; and
- (b) HVAC subsea export cables between Work No. 3B and Work No. 5B along routes within the area shown on the works plans including cable protection and one or more cable crossings; or

Work No. 4C— in the event of scenario 4—

- (a) interlink cables between DEP North and Work No. 3C and DEP South and Work No. 3C; and
- (b) HVAC subsea export cables between Work No. 3C and Work No. 5C along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 5B— in the event of scenario 1, scenario 2 or scenario 3, HVAC subsea export cables between Work No. 4B and Work No. 7B along routes within the area shown on the works plans including cable protection and one or more cable crossings; or

Work No. 5C— in the event of scenario 4, HVAC subsea export cables between Work No. 4C and Work No. 7C along routes within the area shown on the works plans including cable protection and one or more cable crossings;

Work No. 6B— in the event of scenario 1, scenario 2 or scenario 3, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1B, 2B, 3B, 4B and 5B; or

Work No. 6C— in the event of scenario 4, a temporary work area for vessels to carry out intrusive activities and non-intrusive activities alongside Work Nos. 1B, 2B, 3C, 4C and 5C;

Work No. 7B— in the event of scenario 1, scenario 2 or scenario 3, landfall connection works between Work No. 5B and Work No. 8B comprising of a cable circuit and ducts seaward of MHWS within the area shown on the works plans; or

Work No. 7C— in the event of scenario 4, landfall connection works between Work No. 5C and Work No. 8C comprising of up to two cable circuits and ducts seaward of MHWS within the area shown on the works plans;

In connection with such Work Nos. 3A to 7A or Work Nos. 3C to 7C and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this marine licence including—

- (a) scour protection around the foundations of the offshore structures;

- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 3B to 5B and 7B in scenario 1, 2 or 3 or 3C to 5C and 7C in scenario 4 and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits;
- (d) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project;
- (e) removal of static fishing equipment;
- (f) beacons, fenders and other navigational warning or ship impact protection works;
- (g) disposal of drill arisings in connection with any foundation drilling up to a total of 425 cubic metres; and
- (h) temporary deposit and removal of monitoring equipment.

4. The substances and objects authorised for deposit at sea are—

- (a) iron, steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the Order limits during construction drilling or seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for that part of the authorised project comprising Work Nos. 3B, 4B, 5B and 7B are specified below—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	53° 20' 54,139" N	1° 24' 1,404" E
2	53° 20' 5,326" N	1° 24' 0,033" E
3	53° 19' 36,128" N	1° 24' 8,276" E
4	53° 19' 9,827" N	1° 24' 23,580" E
5	53° 18' 34,113" N	1° 25' 3,960" E
6	53° 18' 17,503" N	1° 25' 24,511" E
7	53° 18' 0,222" N	1° 25' 39,259" E
8	53° 17' 15,148" N	1° 26' 5,612" E
9	53° 17' 35,036" N	1° 25' 24,340" E
10	53° 17' 54,920" N	1° 24' 43,056" E
11	53° 18' 14,801" N	1° 24' 1,762" E
12	53° 18' 34,677" N	1° 23' 20,458" E
13	53° 18' 35,113" N	1° 22' 55,059" E
14	53° 18' 9,353" N	1° 22' 14,077" E
15	53° 18' 55,523" N	1° 20' 33,698" E
16	53° 18' 18,216" N	1° 19' 28,603" E
17	53° 18' 23,044" N	1° 19' 18,170" E
18	53° 16' 40,497" N	1° 19' 9,998" E
19	53° 15' 41,443" N	1° 19' 5,297" E
20	53° 12' 35,764" N	1° 25' 45,404" E
21	53° 12' 13,889" N	1° 25' 43,653" E

22	53° 12' 22,727" N	1° 25' 3,043" E
23	53° 12' 46,914" N	1° 24' 11,010" E
24	53° 13' 11,094" N	1° 23' 18,961" E
25	53° 13' 35,269" N	1° 22' 26,895" E
26	53° 13' 59,436" N	1° 21' 34,813" E
27	53° 13' 59,487" N	1° 21' 34,662" E
28	53° 13' 59,504" N	1° 21' 34,593" E
29	53° 13' 59,528" N	1° 21' 34,484" E
30	53° 13' 59,555" N	1° 21' 34,337" E
31	53° 13' 59,614" N	1° 21' 33,969" E
32	53° 13' 59,678" N	1° 21' 33,512" E
33	53° 13' 59,814" N	1° 21' 32,501" E
34	53° 13' 59,897" N	1° 21' 31,942" E
35	53° 13' 59,950" N	1° 21' 31,621" E
36	53° 14' 0,013" N	1° 21' 31,287" E
37	53° 14' 0,091" N	1° 21' 30,923" E
38	53° 14' 0,192" N	1° 21' 30,532" E
39	53° 14' 0,314" N	1° 21' 30,139" E
40	53° 14' 0,438" N	1° 21' 29,791" E
41	53° 14' 0,558" N	1° 21' 29,485" E
42	53° 14' 0,675" N	1° 21' 29,208" E
43	53° 14' 20,752" N	1° 20' 46,650" E
44	53° 14' 40,825" N	1° 20' 4,081" E
45	53° 15' 0,894" N	1° 19' 21,501" E
46	53° 15' 20,958" N	1° 18' 38,910" E
47	53° 15' 21,011" N	1° 18' 38,796" E
48	53° 15' 21,067" N	1° 18' 38,677" E
49	53° 15' 21,123" N	1° 18' 38,558" E
50	53° 15' 21,175" N	1° 18' 38,448" E
51	53° 15' 21,185" N	1° 18' 38,428" E
52	53° 15' 21,236" N	1° 18' 38,321" E
53	53° 15' 21,293" N	1° 18' 38,203" E
54	53° 15' 21,350" N	1° 18' 38,085" E
55	53° 15' 21,407" N	1° 18' 37,968" E
56	53° 15' 21,465" N	1° 18' 37,851" E
57	53° 15' 21,523" N	1° 18' 37,734" E
58	53° 15' 21,581" N	1° 18' 37,618" E
59	53° 15' 21,639" N	1° 18' 37,502" E
60	53° 15' 21,698" N	1° 18' 37,386" E
61	53° 15' 21,756" N	1° 18' 37,271" E
62	53° 15' 21,815" N	1° 18' 37,156" E
63	53° 15' 21,875" N	1° 18' 37,041" E
64	53° 15' 21,934" N	1° 18' 36,927" E
65	53° 15' 21,994" N	1° 18' 36,813" E
66	53° 15' 22,054" N	1° 18' 36,699" E
67	53° 15' 22,114" N	1° 18' 36,586" E
68	53° 15' 22,175" N	1° 18' 36,473" E
69	53° 15' 22,236" N	1° 18' 36,361" E
70	53° 15' 22,297" N	1° 18' 36,249" E
71	53° 15' 22,358" N	1° 18' 36,137" E

72	53° 15' 22,414" N	1° 18' 36,035" E
73	53° 15' 22,425" N	1° 18' 36,015" E
74	53° 15' 22,481" N	1° 18' 35,914" E
75	53° 15' 22,543" N	1° 18' 35,803" E
76	53° 15' 22,605" N	1° 18' 35,693" E
77	53° 15' 22,667" N	1° 18' 35,583" E
78	53° 15' 22,730" N	1° 18' 35,474" E
79	53° 15' 22,793" N	1° 18' 35,364" E
80	53° 15' 22,856" N	1° 18' 35,255" E
81	53° 15' 22,919" N	1° 18' 35,147" E
82	53° 15' 22,983" N	1° 18' 35,039" E
83	53° 15' 23,046" N	1° 18' 34,931" E
84	53° 15' 23,110" N	1° 18' 34,823" E
85	53° 15' 23,174" N	1° 18' 34,716" E
86	53° 15' 23,239" N	1° 18' 34,610" E
87	53° 15' 23,304" N	1° 18' 34,504" E
88	53° 15' 23,368" N	1° 18' 34,398" E
89	53° 15' 23,433" N	1° 18' 34,292" E
90	53° 15' 23,499" N	1° 18' 34,187" E
91	53° 15' 23,564" N	1° 18' 34,082" E
92	53° 15' 23,630" N	1° 18' 33,978" E
93	53° 15' 23,690" N	1° 18' 33,884" E
94	53° 15' 23,701" N	1° 18' 33,865" E
95	53° 15' 23,762" N	1° 18' 33,770" E
96	53° 15' 23,829" N	1° 18' 33,667" E
97	53° 15' 23,895" N	1° 18' 33,564" E
98	53° 15' 23,962" N	1° 18' 33,462" E
99	53° 15' 24,029" N	1° 18' 33,360" E
100	53° 15' 24,096" N	1° 18' 33,258" E
101	53° 15' 24,164" N	1° 18' 33,157" E
102	53° 15' 24,232" N	1° 18' 33,056" E
103	53° 15' 24,299" N	1° 18' 32,955" E
104	53° 15' 24,368" N	1° 18' 32,855" E
105	53° 15' 24,436" N	1° 18' 32,756" E
106	53° 15' 24,504" N	1° 18' 32,656" E
107	53° 15' 24,573" N	1° 18' 32,558" E
108	53° 15' 24,642" N	1° 18' 32,459" E
109	53° 15' 24,711" N	1° 18' 32,361" E
110	53° 15' 24,781" N	1° 18' 32,263" E
111	53° 15' 24,850" N	1° 18' 32,166" E
112	53° 15' 24,920" N	1° 18' 32,069" E
113	53° 15' 24,990" N	1° 18' 31,973" E
114	53° 15' 25,060" N	1° 18' 31,877" E
115	53° 15' 25,124" N	1° 18' 31,790" E
116	53° 15' 25,135" N	1° 18' 31,775" E
117	53° 15' 25,201" N	1° 18' 31,686" E
118	53° 15' 25,272" N	1° 18' 31,591" E
119	53° 15' 25,343" N	1° 18' 31,497" E
120	53° 15' 25,414" N	1° 18' 31,403" E
121	53° 15' 25,485" N	1° 18' 31,309" E

122	53° 15' 25,557" N	1° 18' 31,216" E
123	53° 15' 25,629" N	1° 18' 31,124" E
124	53° 15' 25,701" N	1° 18' 31,031" E
125	53° 15' 25,773" N	1° 18' 30,939" E
126	53° 15' 25,845" N	1° 18' 30,848" E
127	53° 15' 25,918" N	1° 18' 30,757" E
128	53° 15' 25,990" N	1° 18' 30,666" E
129	53° 15' 26,063" N	1° 18' 30,576" E
130	53° 15' 26,136" N	1° 18' 30,486" E
131	53° 15' 26,210" N	1° 18' 30,397" E
132	53° 15' 26,283" N	1° 18' 30,308" E
133	53° 15' 26,357" N	1° 18' 30,220" E
134	53° 15' 26,431" N	1° 18' 30,132" E
135	53° 15' 26,505" N	1° 18' 30,044" E
136	53° 15' 26,579" N	1° 18' 29,957" E
137	53° 15' 26,654" N	1° 18' 29,870" E
138	53° 15' 26,728" N	1° 18' 29,784" E
139	53° 15' 26,803" N	1° 18' 29,698" E
140	53° 15' 26,878" N	1° 18' 29,613" E
141	53° 15' 26,953" N	1° 18' 29,528" E
142	53° 15' 27,028" N	1° 18' 29,443" E
143	53° 15' 27,104" N	1° 18' 29,359" E
144	53° 15' 27,179" N	1° 18' 29,276" E
145	53° 15' 27,255" N	1° 18' 29,192" E
146	53° 15' 27,331" N	1° 18' 29,110" E
147	53° 15' 27,407" N	1° 18' 29,027" E
148	53° 15' 27,484" N	1° 18' 28,945" E
149	53° 15' 27,560" N	1° 18' 28,864" E
150	53° 15' 27,637" N	1° 18' 28,783" E
151	53° 15' 27,714" N	1° 18' 28,702" E
152	53° 15' 27,791" N	1° 18' 28,622" E
153	53° 15' 27,868" N	1° 18' 28,543" E
154	53° 15' 27,945" N	1° 18' 28,464" E
155	53° 15' 28,023" N	1° 18' 28,385" E
156	53° 15' 28,101" N	1° 18' 28,307" E
157	53° 15' 28,178" N	1° 18' 28,229" E
158	53° 15' 28,252" N	1° 18' 28,156" E
159	53° 15' 28,264" N	1° 18' 28,144" E
160	53° 15' 28,335" N	1° 18' 28,075" E
161	53° 15' 28,413" N	1° 18' 27,998" E
162	53° 15' 28,491" N	1° 18' 27,922" E
163	53° 15' 28,570" N	1° 18' 27,847" E
164	53° 15' 28,649" N	1° 18' 27,772" E
165	53° 15' 28,728" N	1° 18' 27,697" E
166	53° 15' 28,807" N	1° 18' 27,623" E
167	53° 15' 28,886" N	1° 18' 27,549" E
168	53° 15' 28,966" N	1° 18' 27,476" E
169	53° 15' 29,045" N	1° 18' 27,403" E
170	53° 15' 29,125" N	1° 18' 27,331" E
171	53° 15' 29,205" N	1° 18' 27,259" E

172	53° 15' 29,285" N	1° 18' 27,188" E
173	53° 15' 29,365" N	1° 18' 27,117" E
174	53° 15' 29,446" N	1° 18' 27,046" E
175	53° 15' 29,526" N	1° 18' 26,976" E
176	53° 15' 29,607" N	1° 18' 26,907" E
177	53° 15' 29,688" N	1° 18' 26,838" E
178	53° 15' 29,769" N	1° 18' 26,769" E
179	53° 15' 29,850" N	1° 18' 26,701" E
180	53° 15' 29,925" N	1° 18' 26,639" E
181	53° 15' 29,939" N	1° 18' 26,628" E
182	53° 15' 30,012" N	1° 18' 26,567" E
183	53° 15' 30,094" N	1° 18' 26,500" E
184	53° 15' 30,176" N	1° 18' 26,434" E
185	53° 15' 30,257" N	1° 18' 26,368" E
186	53° 15' 30,339" N	1° 18' 26,303" E
187	53° 15' 30,421" N	1° 18' 26,238" E
188	53° 15' 30,504" N	1° 18' 26,174" E
189	53° 15' 30,586" N	1° 18' 26,110" E
190	53° 15' 30,668" N	1° 18' 26,047" E
191	53° 15' 30,751" N	1° 18' 25,984" E
192	53° 15' 30,834" N	1° 18' 25,922" E
193	53° 15' 30,917" N	1° 18' 25,860" E
194	53° 15' 31,000" N	1° 18' 25,799" E
195	53° 15' 31,083" N	1° 18' 25,738" E
196	53° 15' 31,166" N	1° 18' 25,678" E
197	53° 15' 31,249" N	1° 18' 25,618" E
198	53° 15' 31,333" N	1° 18' 25,558" E
199	53° 15' 31,416" N	1° 18' 25,500" E
200	53° 15' 31,500" N	1° 18' 25,441" E
201	53° 15' 31,584" N	1° 18' 25,383" E
202	53° 15' 31,660" N	1° 18' 25,331" E
203	53° 15' 31,676" N	1° 18' 25,320" E
204	53° 15' 31,752" N	1° 18' 25,269" E
205	53° 15' 31,836" N	1° 18' 25,212" E
206	53° 15' 31,921" N	1° 18' 25,156" E
207	53° 15' 32,005" N	1° 18' 25,101" E
208	53° 15' 32,090" N	1° 18' 25,046" E
209	53° 15' 32,174" N	1° 18' 24,992" E
210	53° 15' 32,259" N	1° 18' 24,938" E
211	53° 15' 32,344" N	1° 18' 24,884" E
212	53° 15' 32,429" N	1° 18' 24,831" E
213	53° 15' 32,514" N	1° 18' 24,779" E
214	53° 15' 32,600" N	1° 18' 24,727" E
215	53° 15' 32,685" N	1° 18' 24,675" E
216	53° 15' 32,770" N	1° 18' 24,624" E
217	53° 15' 32,856" N	1° 18' 24,574" E
218	53° 15' 32,942" N	1° 18' 24,524" E
219	53° 15' 33,027" N	1° 18' 24,474" E
220	53° 15' 33,113" N	1° 18' 24,425" E
221	53° 15' 33,199" N	1° 18' 24,377" E

222	53° 15' 33,285" N	1° 18' 24,329" E
223	53° 15' 33,364" N	1° 18' 24,286" E
224	53° 15' 33,379" N	1° 18' 24,278" E
225	53° 15' 33,458" N	1° 18' 24,234" E
226	53° 15' 33,544" N	1° 18' 24,188" E
227	53° 15' 33,631" N	1° 18' 24,142" E
228	53° 15' 33,717" N	1° 18' 24,097" E
229	53° 15' 33,804" N	1° 18' 24,052" E
230	53° 15' 33,891" N	1° 18' 24,007" E
231	53° 15' 33,978" N	1° 18' 23,963" E
232	53° 15' 34,065" N	1° 18' 23,920" E
233	53° 15' 34,152" N	1° 18' 23,877" E
234	53° 15' 34,239" N	1° 18' 23,835" E
235	53° 15' 34,326" N	1° 18' 23,793" E
236	53° 15' 34,413" N	1° 18' 23,751" E
237	53° 15' 34,501" N	1° 18' 23,710" E
238	53° 15' 34,588" N	1° 18' 23,670" E
239	53° 15' 34,676" N	1° 18' 23,630" E
240	53° 15' 34,764" N	1° 18' 23,591" E
241	53° 15' 34,851" N	1° 18' 23,552" E
242	53° 15' 34,939" N	1° 18' 23,514" E
243	53° 15' 35,027" N	1° 18' 23,476" E
244	53° 15' 35,115" N	1° 18' 23,439" E
245	53° 15' 35,195" N	1° 18' 23,405" E
246	53° 15' 35,209" N	1° 18' 23,399" E
247	53° 15' 35,291" N	1° 18' 23,366" E
248	53° 15' 35,379" N	1° 18' 23,330" E
249	53° 15' 35,468" N	1° 18' 23,295" E
250	53° 15' 35,556" N	1° 18' 23,260" E
251	53° 15' 35,645" N	1° 18' 23,226" E
252	53° 15' 35,733" N	1° 18' 23,192" E
253	53° 15' 35,822" N	1° 18' 23,159" E
254	53° 15' 35,910" N	1° 18' 23,126" E
255	53° 15' 35,999" N	1° 18' 23,094" E
256	53° 15' 36,088" N	1° 18' 23,063" E
257	53° 15' 36,177" N	1° 18' 23,032" E
258	53° 15' 36,265" N	1° 18' 23,001" E
259	53° 15' 36,354" N	1° 18' 22,971" E
260	53° 15' 36,443" N	1° 18' 22,941" E
261	53° 15' 36,533" N	1° 18' 22,912" E
262	53° 15' 36,622" N	1° 18' 22,884" E
263	53° 15' 36,711" N	1° 18' 22,856" E
264	53° 15' 36,800" N	1° 18' 22,829" E
265	53° 15' 36,890" N	1° 18' 22,802" E
266	53° 15' 36,979" N	1° 18' 22,775" E
267	53° 15' 37,069" N	1° 18' 22,749" E
268	53° 15' 37,158" N	1° 18' 22,724" E
269	53° 15' 37,247" N	1° 18' 22,699" E
270	53° 15' 37,337" N	1° 18' 22,675" E
271	53° 15' 37,427" N	1° 18' 22,651" E

272	53° 15' 37,516" N	1° 18' 22,628" E
273	53° 15' 37,606" N	1° 18' 22,605" E
274	53° 15' 37,696" N	1° 18' 22,583" E
275	53° 15' 37,786" N	1° 18' 22,561" E
276	53° 15' 37,876" N	1° 18' 22,540" E
277	53° 15' 37,966" N	1° 18' 22,520" E
278	53° 15' 38,056" N	1° 18' 22,500" E
279	53° 15' 38,146" N	1° 18' 22,480" E
280	53° 15' 38,236" N	1° 18' 22,461" E
281	53° 15' 38,326" N	1° 18' 22,442" E
282	53° 15' 38,416" N	1° 18' 22,425" E
283	53° 15' 38,506" N	1° 18' 22,407" E
284	53° 15' 38,596" N	1° 18' 22,390" E
285	53° 15' 38,686" N	1° 18' 22,374" E
286	53° 15' 38,777" N	1° 18' 22,358" E
287	53° 15' 38,867" N	1° 18' 22,343" E
288	53° 15' 38,952" N	1° 18' 22,329" E
289	53° 15' 38,966" N	1° 18' 22,326" E
290	53° 15' 39,048" N	1° 18' 22,313" E
291	53° 15' 39,138" N	1° 18' 22,300" E
292	53° 15' 39,229" N	1° 18' 22,286" E
293	53° 15' 39,319" N	1° 18' 22,274" E
294	53° 15' 39,410" N	1° 18' 22,262" E
295	53° 15' 39,500" N	1° 18' 22,250" E
296	53° 15' 39,591" N	1° 18' 22,239" E
297	53° 15' 39,681" N	1° 18' 22,228" E
298	53° 15' 39,772" N	1° 18' 22,218" E
299	53° 15' 39,862" N	1° 18' 22,209" E
300	53° 15' 39,953" N	1° 18' 22,200" E
301	53° 15' 40,044" N	1° 18' 22,191" E
302	53° 15' 40,134" N	1° 18' 22,183" E
303	53° 15' 40,225" N	1° 18' 22,176" E
304	53° 15' 40,316" N	1° 18' 22,169" E
305	53° 15' 40,406" N	1° 18' 22,163" E
306	53° 15' 40,497" N	1° 18' 22,157" E
307	53° 15' 40,588" N	1° 18' 22,152" E
308	53° 15' 40,678" N	1° 18' 22,147" E
309	53° 15' 40,769" N	1° 18' 22,143" E
310	53° 15' 40,853" N	1° 18' 22,139" E
311	53° 15' 40,868" N	1° 18' 22,139" E
312	53° 15' 40,951" N	1° 18' 22,136" E
313	53° 15' 41,041" N	1° 18' 22,133" E
314	53° 15' 41,132" N	1° 18' 22,131" E
315	53° 15' 41,223" N	1° 18' 22,129" E
316	53° 15' 41,314" N	1° 18' 22,128" E
317	53° 15' 41,405" N	1° 18' 22,128" E
318	53° 15' 41,495" N	1° 18' 22,128" E
319	53° 15' 41,586" N	1° 18' 22,128" E
320	53° 15' 41,677" N	1° 18' 22,130" E
321	53° 15' 41,768" N	1° 18' 22,131" E

322	53° 15' 41,858" N	1° 18' 22,133" E
323	53° 15' 41,949" N	1° 18' 22,136" E
324	53° 15' 42,040" N	1° 18' 22,139" E
325	53° 15' 42,131" N	1° 18' 22,143" E
326	53° 15' 42,221" N	1° 18' 22,147" E
327	53° 15' 42,312" N	1° 18' 22,152" E
328	53° 15' 42,403" N	1° 18' 22,157" E
329	53° 15' 42,494" N	1° 18' 22,163" E
330	53° 15' 42,584" N	1° 18' 22,170" E
331	53° 15' 42,671" N	1° 18' 22,176" E
332	53° 17' 29,099" N	1° 18' 30,623" E
333	53° 18' 17,849" N	1° 17' 51,100" E
334	53° 18' 52,654" N	1° 17' 33,836" E
335	53° 19' 27,459" N	1° 17' 16,563" E
336	53° 19' 41,748" N	1° 17' 0,577" E
337	53° 18' 56,531" N	1° 16' 15,330" E
338	53° 17' 53,698" N	1° 15' 55,514" E
339	53° 16' 50,863" N	1° 15' 35,713" E
340	53° 15' 48,027" N	1° 15' 15,928" E
341	53° 14' 45,190" N	1° 14' 56,158" E
342	53° 13' 42,353" N	1° 14' 36,404" E
343	53° 12' 39,514" N	1° 14' 16,665" E
344	53° 11' 36,675" N	1° 13' 56,942" E
345	53° 10' 33,834" N	1° 13' 37,234" E
346	53° 9' 56,800" N	1° 14' 32,527" E
347	53° 9' 35,524" N	1° 14' 21,148" E
348	53° 9' 4,437" N	1° 15' 9,684" E
349	53° 8' 33,344" N	1° 15' 58,201" E
350	53° 8' 2,245" N	1° 16' 46,699" E
351	53° 7' 31,141" N	1° 17' 35,177" E
352	53° 7' 12,187" N	1° 18' 5,637" E
353	53° 6' 40,142" N	1° 17' 46,074" E
354	53° 6' 8,096" N	1° 17' 26,519" E
355	53° 5' 53,359" N	1° 17' 17,530" E
356	53° 5' 36,048" N	1° 17' 6,972" E
357	53° 5' 4,000" N	1° 16' 47,433" E
358	53° 5' 3,998" N	1° 16' 47,439" E
359	53° 4' 48,834" N	1° 16' 40,042" E
360	53° 4' 23,756" N	1° 16' 27,812" E
361	53° 3' 39,216" N	1° 16' 5,715" E
362	53° 3' 4,285" N	1° 15' 45,012" E
363	53° 2' 42,819" N	1° 15' 34,383" E
364	53° 2' 18,678" N	1° 15' 22,981" E
365	53° 2' 4,608" N	1° 15' 14,913" E
366	53° 2' 1,090" N	1° 15' 12,896" E
367	53° 2' 0,211" N	1° 15' 12,392" E
368	53° 1' 59,991" N	1° 15' 12,266" E
369	53° 1' 59,771" N	1° 15' 12,140" E
370	53° 1' 59,331" N	1° 15' 11,888" E
371	53° 1' 57,573" N	1° 15' 10,880" E

372	53° 1' 50,538" N	1° 15' 6,846" E
373	53° 1' 36,320" N	1° 15' 7,829" E
374	53° 1' 32,765" N	1° 15' 8,074" E
375	53° 1' 31,876" N	1° 15' 8,136" E
376	53° 1' 31,432" N	1° 15' 8,167" E
377	53° 1' 31,321" N	1° 15' 8,174" E
378	53° 1' 31,210" N	1° 15' 8,182" E
379	53° 1' 30,988" N	1° 15' 8,197" E
380	53° 1' 29,210" N	1° 15' 8,320" E
381	53° 1' 22,101" N	1° 15' 8,812" E
382	53° 1' 9,264" N	1° 14' 55,002" E
383	53° 0' 53,523" N	1° 14' 34,350" E
384	53° 0' 37,631" N	1° 14' 15,360" E
385	53° 0' 19,626" N	1° 13' 59,138" E
386	53° 0' 4,888" N	1° 13' 45,462" E
387	52° 59' 45,135" N	1° 13' 20,396" E
388	52° 59' 8,327" N	1° 12' 31,064" E
389	52° 58' 31,514" N	1° 11' 41,754" E
390	52° 58' 3,439" N	1° 11' 1,017" E
391	52° 57' 35,361" N	1° 10' 20,295" E
392	52° 56' 54,694" N	1° 9' 27,639" E
393	52° 56' 54,694" N	1° 9' 27,604" E
394	52° 56' 54,690" N	1° 9' 27,438" E
395	52° 56' 54,680" N	1° 9' 27,273" E
396	52° 56' 54,664" N	1° 9' 27,109" E
397	52° 56' 54,643" N	1° 9' 26,945" E
398	52° 56' 54,630" N	1° 9' 26,860" E
399	52° 56' 54,631" N	1° 9' 26,827" E
400	52° 56' 54,664" N	1° 9' 25,966" E
401	52° 56' 54,694" N	1° 9' 25,197" E
402	52° 56' 54,708" N	1° 9' 24,908" E
403	52° 56' 54,755" N	1° 9' 24,108" E
404	52° 56' 54,825" N	1° 9' 22,821" E
405	52° 56' 54,902" N	1° 9' 21,380" E
406	52° 56' 54,954" N	1° 9' 20,542" E
407	52° 56' 54,988" N	1° 9' 19,874" E
408	52° 56' 55,005" N	1° 9' 19,463" E
409	52° 56' 55,021" N	1° 9' 19,228" E
410	52° 56' 55,096" N	1° 9' 18,274" E
411	52° 56' 55,133" N	1° 9' 17,756" E
412	52° 56' 55,159" N	1° 9' 17,538" E
413	52° 56' 55,187" N	1° 9' 17,240" E
414	52° 56' 55,258" N	1° 9' 16,558" E
415	52° 56' 55,336" N	1° 9' 15,883" E
416	52° 56' 55,442" N	1° 9' 14,936" E
417	52° 56' 55,566" N	1° 9' 13,609" E
418	52° 56' 55,689" N	1° 9' 12,143" E
419	52° 56' 55,724" N	1° 9' 11,700" E
420	52° 56' 55,761" N	1° 9' 11,231" E
421	52° 56' 55,789" N	1° 9' 10,675" E

422	52° 56' 55,816" N	1° 9' 10,210" E
423	52° 56' 55,838" N	1° 9' 9,767" E
424	52° 56' 55,855" N	1° 9' 9,204" E
425	52° 56' 55,878" N	1° 9' 8,627" E
426	52° 56' 55,882" N	1° 9' 8,037" E
427	52° 56' 55,885" N	1° 9' 7,479" E
428	52° 56' 55,894" N	1° 9' 6,938" E
429	52° 56' 55,906" N	1° 9' 6,520" E
430	52° 56' 55,940" N	1° 9' 5,589" E
431	52° 56' 55,960" N	1° 9' 4,555" E
432	52° 56' 55,985" N	1° 9' 3,908" E
433	52° 56' 56,007" N	1° 9' 3,035" E
434	52° 56' 56,043" N	1° 9' 2,131" E
435	52° 56' 56,081" N	1° 9' 1,281" E
436	52° 56' 56,125" N	1° 9' 0,426" E
437	52° 56' 56,138" N	1° 9' 0,083" E
438	52° 56' 56,144" N	1° 9' 0,019" E
439	52° 56' 56,142" N	1° 8' 59,955" E
440	52° 56' 56,135" N	1° 8' 59,853" E
441	52° 56' 56,120" N	1° 8' 59,728" E
442	52° 56' 56,115" N	1° 8' 59,685" E
443	52° 56' 56,113" N	1° 8' 59,636" E
444	52° 56' 56,116" N	1° 8' 59,535" E
445	52° 56' 56,126" N	1° 8' 59,396" E
446	52° 56' 56,149" N	1° 8' 59,280" E
447	52° 56' 56,156" N	1° 8' 59,130" E
448	52° 56' 56,160" N	1° 8' 59,023" E
449	52° 56' 56,159" N	1° 8' 58,921" E
450	52° 56' 56,153" N	1° 8' 58,797" E
451	52° 56' 56,149" N	1° 8' 58,711" E
452	52° 56' 56,158" N	1° 8' 58,620" E
453	52° 56' 56,166" N	1° 8' 58,567" E
454	52° 56' 56,177" N	1° 8' 58,514" E
455	52° 56' 56,199" N	1° 8' 58,436" E
456	52° 56' 56,210" N	1° 8' 58,388" E
457	52° 56' 56,221" N	1° 8' 58,336" E
458	52° 56' 56,229" N	1° 8' 58,283" E
459	52° 56' 56,234" N	1° 8' 58,224" E
460	52° 56' 56,236" N	1° 8' 58,154" E
461	52° 56' 56,232" N	1° 8' 58,084" E
462	52° 56' 56,213" N	1° 8' 57,949" E
463	52° 56' 56,196" N	1° 8' 57,851" E
464	52° 56' 56,191" N	1° 8' 57,792" E
465	52° 56' 56,190" N	1° 8' 57,727" E
466	52° 56' 56,192" N	1° 8' 57,652" E
467	52° 56' 56,200" N	1° 8' 57,578" E
468	52° 56' 56,212" N	1° 8' 57,482" E
469	52° 56' 56,230" N	1° 8' 57,392" E
470	52° 56' 56,244" N	1° 8' 57,351" E
471	52° 56' 56,255" N	1° 8' 57,303" E

472	52° 56' 56,267" N	1° 8' 57,218" E
473	52° 56' 56,273" N	1° 8' 57,122" E
474	52° 56' 56,271" N	1° 8' 56,950" E
475	52° 56' 56,256" N	1° 8' 56,751" E
476	52° 56' 56,247" N	1° 8' 56,601" E
477	52° 56' 56,242" N	1° 8' 56,536" E
478	52° 56' 56,244" N	1° 8' 56,472" E
479	52° 56' 56,260" N	1° 8' 56,361" E
480	52° 56' 56,274" N	1° 8' 56,303" E
481	52° 56' 56,285" N	1° 8' 56,239" E
482	52° 56' 56,307" N	1° 8' 56,021" E
483	52° 56' 56,320" N	1° 8' 55,647" E
484	52° 56' 56,327" N	1° 8' 55,080" E
485	52° 56' 56,337" N	1° 8' 54,834" E
486	52° 56' 56,357" N	1° 8' 54,434" E
487	52° 56' 56,378" N	1° 8' 53,980" E
488	52° 56' 56,405" N	1° 8' 53,527" E
489	52° 56' 56,442" N	1° 8' 52,977" E
490	52° 56' 56,474" N	1° 8' 52,583" E
491	52° 56' 56,485" N	1° 8' 52,402" E
492	52° 56' 56,493" N	1° 8' 52,215" E
493	52° 56' 56,496" N	1° 8' 52,018" E
494	52° 56' 56,571" N	1° 8' 50,912" E
495	52° 56' 56,607" N	1° 8' 50,422" E
496	52° 56' 56,644" N	1° 8' 49,931" E
497	52° 56' 56,682" N	1° 8' 49,441" E
498	52° 56' 56,719" N	1° 8' 48,951" E
499	52° 56' 56,755" N	1° 8' 48,460" E
500	52° 56' 56,778" N	1° 8' 48,023" E
501	52° 56' 56,793" N	1° 8' 47,584" E
502	52° 56' 56,804" N	1° 8' 47,144" E
503	52° 56' 56,821" N	1° 8' 46,705" E
504	52° 56' 56,849" N	1° 8' 46,269" E
505	52° 56' 57,031" N	1° 8' 44,094" E
506	52° 56' 57,117" N	1° 8' 43,069" E
507	52° 56' 57,183" N	1° 8' 42,274" E
508	52° 56' 57,208" N	1° 8' 42,038" E
509	52° 56' 57,216" N	1° 8' 41,942" E
510	52° 56' 57,222" N	1° 8' 41,846" E
511	52° 56' 57,222" N	1° 8' 41,826" E
512	52° 56' 57,242" N	1° 8' 41,608" E
513	52° 56' 57,243" N	1° 8' 41,601" E
514	52° 56' 57,276" N	1° 8' 41,405" E
515	52° 56' 57,304" N	1° 8' 41,209" E
516	52° 56' 57,335" N	1° 8' 40,949" E
517	52° 56' 57,367" N	1° 8' 40,652" E
518	52° 56' 57,390" N	1° 8' 40,348" E
519	52° 56' 57,409" N	1° 8' 40,076" E
520	52° 56' 57,426" N	1° 8' 39,917" E
521	52° 56' 57,434" N	1° 8' 39,811" E

522	52° 56' 57,442" N	1° 8' 39,576" E
523	52° 56' 57,443" N	1° 8' 39,487" E
524	52° 56' 57,471" N	1° 8' 39,155" E
525	52° 56' 57,517" N	1° 8' 38,578" E
526	52° 56' 57,560" N	1° 8' 37,999" E
527	52° 56' 57,601" N	1° 8' 37,421" E
528	52° 56' 57,628" N	1° 8' 36,995" E
529	52° 56' 57,651" N	1° 8' 36,569" E
530	52° 56' 57,673" N	1° 8' 36,143" E
531	52° 56' 57,696" N	1° 8' 35,716" E
532	52° 56' 57,723" N	1° 8' 35,291" E
533	52° 56' 57,756" N	1° 8' 34,877" E
534	52° 56' 57,791" N	1° 8' 34,520" E
535	52° 56' 57,805" N	1° 8' 34,405" E
536	52° 56' 57,833" N	1° 8' 34,187" E
537	52° 56' 57,854" N	1° 8' 33,996" E
538	52° 56' 57,876" N	1° 8' 33,767" E
539	52° 56' 57,909" N	1° 8' 33,475" E
540	52° 56' 57,937" N	1° 8' 33,262" E
541	52° 56' 57,958" N	1° 8' 33,060" E
542	52° 56' 57,974" N	1° 8' 32,825" E
543	52° 56' 57,988" N	1° 8' 32,547" E
544	52° 56' 57,996" N	1° 8' 32,371" E
545	52° 56' 58,009" N	1° 8' 32,099" E
546	52° 56' 58,026" N	1° 8' 31,698" E
547	52° 56' 58,053" N	1° 8' 31,164" E
548	52° 56' 58,091" N	1° 8' 30,706" E
549	52° 56' 58,128" N	1° 8' 30,178" E
550	52° 56' 58,173" N	1° 8' 29,592" E
551	52° 56' 58,219" N	1° 8' 29,048" E
552	52° 56' 58,278" N	1° 8' 28,431" E
553	52° 56' 58,343" N	1° 8' 27,669" E
554	52° 56' 58,359" N	1° 8' 27,381" E
555	52° 56' 58,372" N	1° 8' 27,216" E
556	52° 56' 58,390" N	1° 8' 26,964" E
557	52° 56' 58,392" N	1° 8' 26,912" E
558	52° 56' 58,403" N	1° 8' 26,797" E
559	52° 56' 58,398" N	1° 8' 26,780" E
560	52° 56' 57,591" N	1° 8' 23,453" E
561	52° 56' 57,607" N	1° 8' 23,312" E
562	52° 56' 57,696" N	1° 8' 22,616" E
563	52° 56' 57,819" N	1° 8' 21,510" E
564	52° 56' 58,021" N	1° 8' 19,543" E
565	52° 56' 58,156" N	1° 8' 18,267" E
566	52° 56' 58,293" N	1° 8' 16,991" E
567	52° 56' 58,371" N	1° 8' 16,290" E
568	52° 56' 58,452" N	1° 8' 15,590" E
569	52° 56' 58,533" N	1° 8' 14,889" E
570	52° 56' 58,611" N	1° 8' 14,188" E
571	52° 56' 58,684" N	1° 8' 13,438" E

572	52° 56' 58,747" N	1° 8' 12,686" E
573	52° 56' 58,808" N	1° 8' 11,957" E
574	52° 56' 58,817" N	1° 8' 11,966" E
575	52° 56' 58,840" N	1° 8' 11,992" E
576	52° 56' 59,726" N	1° 8' 12,960" E
577	52° 57' 0,102" N	1° 8' 13,371" E
578	52° 57' 8,134" N	1° 8' 22,147" E
579	52° 57' 14,357" N	1° 8' 25,824" E
580	52° 57' 22,662" N	1° 8' 28,252" E
581	52° 57' 40,113" N	1° 8' 33,188" E
582	52° 57' 42,426" N	1° 8' 35,383" E
583	52° 57' 52,102" N	1° 8' 56,636" E
584	52° 58' 16,245" N	1° 10' 2,679" E
585	52° 58' 41,839" N	1° 10' 38,668" E
586	52° 59' 7,430" N	1° 11' 14,669" E
587	52° 59' 42,249" N	1° 12' 2,219" E
588	53° 0' 17,064" N	1° 12' 49,789" E
589	53° 0' 35,405" N	1° 13' 4,931" E
590	53° 0' 57,553" N	1° 13' 25,221" E
591	53° 1' 22,451" N	1° 13' 58,051" E
592	53° 1' 27,774" N	1° 14' 5,055" E
593	53° 1' 30,435" N	1° 14' 8,557" E
594	53° 1' 31,101" N	1° 14' 9,432" E
595	53° 1' 31,267" N	1° 14' 9,651" E
596	53° 1' 31,350" N	1° 14' 9,760" E
597	53° 1' 31,433" N	1° 14' 9,870" E
598	53° 1' 31,766" N	1° 14' 10,308" E
599	53° 1' 33,097" N	1° 14' 12,058" E
600	53° 1' 43,742" N	1° 14' 26,066" E
601	53° 1' 54,320" N	1° 14' 36,758" E
602	53° 1' 59,354" N	1° 14' 39,959" E
603	53° 1' 59,983" N	1° 14' 40,359" E
604	53° 2' 0,613" N	1° 14' 40,760" E
605	53° 2' 1,871" N	1° 14' 41,560" E
606	53° 2' 4,388" N	1° 14' 43,161" E
607	53° 2' 14,457" N	1° 14' 49,564" E
608	53° 3' 4,871" N	1° 15' 12,274" E
609	53° 4' 0,089" N	1° 15' 35,690" E
610	53° 4' 23,250" N	1° 15' 46,786" E
611	53° 5' 0,996" N	1° 15' 11,113" E
612	53° 5' 20,705" N	1° 14' 48,183" E
613	53° 5' 33,957" N	1° 13' 54,955" E
614	53° 5' 47,202" N	1° 13' 1,718" E
615	53° 5' 47,266" N	1° 13' 1,677" E
616	53° 5' 47,540" N	1° 13' 1,498" E
617	53° 5' 47,545" N	1° 13' 1,495" E
618	53° 5' 50,444" N	1° 12' 59,604" E
619	53° 5' 50,506" N	1° 12' 59,565" E
620	53° 6' 19,018" N	1° 12' 40,975" E
621	53° 6' 19,097" N	1° 12' 40,924" E

622	53° 6' 43,080" N	1° 12' 25,287" E
623	53° 7' 12,739" N	1° 12' 5,962" E
624	53° 7' 42,397" N	1° 11' 46,630" E
625	53° 7' 49,968" N	1° 11' 41,694" E
626	53° 10' 14,683" N	1° 12' 33,700" E
627	53° 11' 24,043" N	1° 12' 55,421" E
628	53° 12' 33,402" N	1° 13' 17,161" E
629	53° 13' 42,760" N	1° 13' 38,920" E
630	53° 14' 52,117" N	1° 14' 0,698" E
631	53° 16' 1,472" N	1° 14' 22,495" E
632	53° 17' 10,827" N	1° 14' 44,310" E
633	53° 18' 20,180" N	1° 15' 6,145" E
634	53° 19' 29,532" N	1° 15' 27,998" E
635	53° 20' 0,390" N	1° 14' 40,388" E
636	53° 19' 31,548" N	1° 13' 30,141" E
637	53° 19' 2,699" N	1° 12' 19,932" E
638	53° 19' 34,347" N	1° 11' 47,739" E
639	53° 20' 5,992" N	1° 11' 15,533" E
640	53° 20' 37,635" N	1° 10' 43,313" E
641	53° 21' 9,275" N	1° 10' 11,081" E
642	53° 21' 9,340" N	1° 11' 6,237" E
643	53° 21' 9,399" N	1° 12' 1,393" E
644	53° 21' 9,451" N	1° 12' 56,550" E
645	53° 21' 9,495" N	1° 13' 51,706" E
646	53° 21' 9,533" N	1° 14' 46,863" E
647	53° 21' 9,563" N	1° 15' 42,020" E
648	53° 21' 9,602" N	1° 17' 32,335" E
649	53° 20' 46,340" N	1° 18' 7,238" E
650	53° 20' 58,886" N	1° 18' 37,507" E
651	53° 21' 16,936" N	1° 18' 58,324" E
817	53° 21' 24,406" N	1° 19' 46,805" E
818	53° 21' 27,180" N	1° 20' 4,816" E
819	53° 21' 37,414" N	1° 21' 11,318" E
820	53° 21' 47,638" N	1° 22' 17,828" E
821	53° 21' 57,851" N	1° 23' 24,348" E
822	53° 21' 25,995" N	1° 23' 42,880" E

DEP South

B.01	53° 14' 5,405" N	1° 25' 52,576" E
B.02	53° 13' 44,764" N	1° 27' 26,148" E
B.03	53° 13' 21,538" N	1° 28' 1,214" E
B.04	53° 12' 58,309" N	1° 28' 36,270" E
B.05	53° 12' 35,077" N	1° 29' 11,315" E
B.06	53° 12' 11,842" N	1° 29' 46,349" E
B.07	53° 11' 48,603" N	1° 30' 21,373" E
B.08	53° 11' 25,362" N	1° 30' 56,387" E
B.09	53° 11' 2,118" N	1° 31' 31,390" E
B.10	53° 10' 38,872" N	1° 32' 6,382" E
B.11	53° 10' 16,470" N	1° 31' 10,439" E
B.12	53° 9' 54,062" N	1° 30' 14,512" E
B.13	53° 9' 31,646" N	1° 29' 18,602" E

B.14	53° 9' 9,223" N	1° 28' 22,708" E
B.15	53° 9' 18,541" N	1° 27' 23,002" E
B.16	53° 9' 42,205" N	1° 26' 28,216" E
B.17	53° 10' 5,861" N	1° 25' 33,413" E
B.18	53° 12' 11,085" N	1° 25' 43,428" E

6. The grid coordinates for that part of the authorised project comprising Work Nos. 3C, 4C, 5C and 7C are specified below—

<i>Point ID</i>	<i>Latitude</i>	<i>Longitude</i>
1	53° 10' 33,834" N	1° 13' 37,234" E
2	53° 9' 56,800" N	1° 14' 32,527" E
3	53° 10' 15,091" N	1° 15' 51,276" E
4	53° 10' 33,368" N	1° 17' 10,043" E
5	53° 10' 51,630" N	1° 18' 28,829" E
6	53° 11' 9,878" N	1° 19' 47,634" E
7	53° 11' 28,112" N	1° 21' 6,458" E
8	53° 11' 46,331" N	1° 22' 25,301" E
9	53° 12' 4,536" N	1° 23' 44,163" E
10	53° 12' 22,727" N	1° 25' 3,043" E
11	53° 12' 35,764" N	1° 25' 45,404" E
12	53° 12' 13,889" N	1° 25' 43,653" E
13	53° 12' 10,720" N	1° 25' 29,896" E
14	53° 11' 51,377" N	1° 24' 6,228" E
15	53° 11' 32,018" N	1° 22' 42,581" E
16	53° 11' 12,643" N	1° 21' 18,956" E
17	53° 10' 53,251" N	1° 19' 55,352" E
18	53° 10' 33,844" N	1° 18' 31,769" E
19	53° 10' 14,420" N	1° 17' 8,207" E
20	53° 9' 54,980" N	1° 15' 44,667" E
21	53° 9' 35,524" N	1° 14' 21,148" E
22	53° 9' 4,437" N	1° 15' 9,684" E
23	53° 8' 33,344" N	1° 15' 58,201" E
24	53° 8' 2,245" N	1° 16' 46,699" E
25	53° 7' 31,141" N	1° 17' 35,177" E
26	53° 7' 12,187" N	1° 18' 5,637" E
27	53° 6' 40,142" N	1° 17' 46,074" E
28	53° 6' 8,096" N	1° 17' 26,519" E
29	53° 5' 53,359" N	1° 17' 17,530" E
30	53° 5' 36,048" N	1° 17' 6,972" E
31	53° 5' 4,000" N	1° 16' 47,433" E
32	53° 5' 3,998" N	1° 16' 47,439" E
33	53° 4' 48,834" N	1° 16' 40,042" E
34	53° 4' 23,756" N	1° 16' 27,812" E
35	53° 3' 39,216" N	1° 16' 5,715" E
36	53° 3' 4,285" N	1° 15' 45,012" E
37	53° 2' 42,819" N	1° 15' 34,383" E
38	53° 2' 18,678" N	1° 15' 22,981" E
39	53° 2' 4,608" N	1° 15' 14,913" E
40	53° 2' 1,090" N	1° 15' 12,896" E
41	53° 2' 0,211" N	1° 15' 12,392" E

42	53° 1' 59,991" N	1° 15' 12,266" E
43	53° 1' 59,771" N	1° 15' 12,140" E
44	53° 1' 59,331" N	1° 15' 11,888" E
45	53° 1' 57,573" N	1° 15' 10,880" E
46	53° 1' 50,538" N	1° 15' 6,846" E
47	53° 1' 36,320" N	1° 15' 7,829" E
48	53° 1' 32,765" N	1° 15' 8,074" E
49	53° 1' 31,876" N	1° 15' 8,136" E
50	53° 1' 31,432" N	1° 15' 8,167" E
51	53° 1' 31,321" N	1° 15' 8,174" E
52	53° 1' 31,210" N	1° 15' 8,182" E
53	53° 1' 30,988" N	1° 15' 8,197" E
54	53° 1' 29,210" N	1° 15' 8,320" E
55	53° 1' 22,101" N	1° 15' 8,812" E
56	53° 1' 9,264" N	1° 14' 55,002" E
57	53° 0' 53,523" N	1° 14' 34,350" E
58	53° 0' 37,631" N	1° 14' 15,360" E
59	53° 0' 19,626" N	1° 13' 59,138" E
60	53° 0' 4,888" N	1° 13' 45,462" E
61	52° 59' 45,135" N	1° 13' 20,396" E
62	52° 59' 8,327" N	1° 12' 31,064" E
63	52° 58' 31,514" N	1° 11' 41,754" E
64	52° 58' 3,439" N	1° 11' 1,017" E
65	52° 57' 35,361" N	1° 10' 20,295" E
66	52° 56' 54,694" N	1° 9' 27,639" E
67	52° 56' 54,694" N	1° 9' 27,604" E
68	52° 56' 54,690" N	1° 9' 27,438" E
69	52° 56' 54,680" N	1° 9' 27,273" E
70	52° 56' 54,664" N	1° 9' 27,109" E
71	52° 56' 54,643" N	1° 9' 26,945" E
72	52° 56' 54,630" N	1° 9' 26,860" E
73	52° 56' 54,631" N	1° 9' 26,827" E
74	52° 56' 54,664" N	1° 9' 25,966" E
75	52° 56' 54,694" N	1° 9' 25,197" E
76	52° 56' 54,708" N	1° 9' 24,908" E
77	52° 56' 54,755" N	1° 9' 24,108" E
78	52° 56' 54,825" N	1° 9' 22,821" E
79	52° 56' 54,902" N	1° 9' 21,380" E
80	52° 56' 54,954" N	1° 9' 20,542" E
81	52° 56' 54,988" N	1° 9' 19,874" E
82	52° 56' 55,005" N	1° 9' 19,463" E
83	52° 56' 55,021" N	1° 9' 19,228" E
84	52° 56' 55,096" N	1° 9' 18,274" E
85	52° 56' 55,133" N	1° 9' 17,756" E
86	52° 56' 55,159" N	1° 9' 17,538" E
87	52° 56' 55,187" N	1° 9' 17,240" E
88	52° 56' 55,258" N	1° 9' 16,558" E
89	52° 56' 55,336" N	1° 9' 15,883" E
90	52° 56' 55,442" N	1° 9' 14,936" E
91	52° 56' 55,566" N	1° 9' 13,609" E

92	52° 56' 55,689" N	1° 9' 12,143" E
93	52° 56' 55,724" N	1° 9' 11,700" E
94	52° 56' 55,761" N	1° 9' 11,231" E
95	52° 56' 55,789" N	1° 9' 10,675" E
96	52° 56' 55,816" N	1° 9' 10,210" E
97	52° 56' 55,838" N	1° 9' 9,767" E
98	52° 56' 55,855" N	1° 9' 9,204" E
99	52° 56' 55,878" N	1° 9' 8,627" E
100	52° 56' 55,882" N	1° 9' 8,037" E
101	52° 56' 55,885" N	1° 9' 7,479" E
102	52° 56' 55,894" N	1° 9' 6,938" E
103	52° 56' 55,906" N	1° 9' 6,520" E
104	52° 56' 55,940" N	1° 9' 5,589" E
105	52° 56' 55,960" N	1° 9' 4,555" E
106	52° 56' 55,985" N	1° 9' 3,908" E
107	52° 56' 56,007" N	1° 9' 3,035" E
108	52° 56' 56,043" N	1° 9' 2,131" E
109	52° 56' 56,081" N	1° 9' 1,281" E
110	52° 56' 56,125" N	1° 9' 0,426" E
111	52° 56' 56,138" N	1° 9' 0,083" E
112	52° 56' 56,144" N	1° 9' 0,019" E
113	52° 56' 56,142" N	1° 8' 59,955" E
114	52° 56' 56,135" N	1° 8' 59,853" E
115	52° 56' 56,120" N	1° 8' 59,728" E
116	52° 56' 56,115" N	1° 8' 59,685" E
117	52° 56' 56,113" N	1° 8' 59,636" E
118	52° 56' 56,116" N	1° 8' 59,535" E
119	52° 56' 56,126" N	1° 8' 59,396" E
120	52° 56' 56,149" N	1° 8' 59,280" E
121	52° 56' 56,156" N	1° 8' 59,130" E
122	52° 56' 56,160" N	1° 8' 59,023" E
123	52° 56' 56,159" N	1° 8' 58,921" E
124	52° 56' 56,153" N	1° 8' 58,797" E
125	52° 56' 56,149" N	1° 8' 58,711" E
126	52° 56' 56,158" N	1° 8' 58,620" E
127	52° 56' 56,166" N	1° 8' 58,567" E
128	52° 56' 56,177" N	1° 8' 58,514" E
129	52° 56' 56,199" N	1° 8' 58,436" E
130	52° 56' 56,210" N	1° 8' 58,388" E
131	52° 56' 56,221" N	1° 8' 58,336" E
132	52° 56' 56,229" N	1° 8' 58,283" E
133	52° 56' 56,234" N	1° 8' 58,224" E
134	52° 56' 56,236" N	1° 8' 58,154" E
135	52° 56' 56,232" N	1° 8' 58,084" E
136	52° 56' 56,213" N	1° 8' 57,949" E
137	52° 56' 56,196" N	1° 8' 57,851" E
138	52° 56' 56,191" N	1° 8' 57,792" E
139	52° 56' 56,190" N	1° 8' 57,727" E
140	52° 56' 56,192" N	1° 8' 57,652" E
141	52° 56' 56,200" N	1° 8' 57,578" E

142	52° 56' 56,212" N	1° 8' 57,482" E
143	52° 56' 56,230" N	1° 8' 57,392" E
144	52° 56' 56,244" N	1° 8' 57,351" E
145	52° 56' 56,255" N	1° 8' 57,303" E
146	52° 56' 56,267" N	1° 8' 57,218" E
147	52° 56' 56,273" N	1° 8' 57,122" E
148	52° 56' 56,271" N	1° 8' 56,950" E
149	52° 56' 56,256" N	1° 8' 56,751" E
150	52° 56' 56,247" N	1° 8' 56,601" E
151	52° 56' 56,242" N	1° 8' 56,536" E
152	52° 56' 56,244" N	1° 8' 56,472" E
153	52° 56' 56,260" N	1° 8' 56,361" E
154	52° 56' 56,274" N	1° 8' 56,303" E
155	52° 56' 56,285" N	1° 8' 56,239" E
156	52° 56' 56,307" N	1° 8' 56,021" E
157	52° 56' 56,320" N	1° 8' 55,647" E
158	52° 56' 56,327" N	1° 8' 55,080" E
159	52° 56' 56,337" N	1° 8' 54,834" E
160	52° 56' 56,357" N	1° 8' 54,434" E
161	52° 56' 56,378" N	1° 8' 53,980" E
162	52° 56' 56,405" N	1° 8' 53,527" E
163	52° 56' 56,442" N	1° 8' 52,977" E
164	52° 56' 56,474" N	1° 8' 52,583" E
165	52° 56' 56,485" N	1° 8' 52,402" E
166	52° 56' 56,493" N	1° 8' 52,215" E
167	52° 56' 56,496" N	1° 8' 52,018" E
168	52° 56' 56,571" N	1° 8' 50,912" E
169	52° 56' 56,607" N	1° 8' 50,422" E
170	52° 56' 56,644" N	1° 8' 49,931" E
171	52° 56' 56,682" N	1° 8' 49,441" E
172	52° 56' 56,719" N	1° 8' 48,951" E
173	52° 56' 56,755" N	1° 8' 48,460" E
174	52° 56' 56,778" N	1° 8' 48,023" E
175	52° 56' 56,793" N	1° 8' 47,584" E
176	52° 56' 56,804" N	1° 8' 47,144" E
177	52° 56' 56,821" N	1° 8' 46,705" E
178	52° 56' 56,849" N	1° 8' 46,269" E
179	52° 56' 57,031" N	1° 8' 44,094" E
180	52° 56' 57,117" N	1° 8' 43,069" E
181	52° 56' 57,183" N	1° 8' 42,274" E
182	52° 56' 57,208" N	1° 8' 42,038" E
183	52° 56' 57,216" N	1° 8' 41,942" E
184	52° 56' 57,222" N	1° 8' 41,846" E
185	52° 56' 57,222" N	1° 8' 41,826" E
186	52° 56' 57,242" N	1° 8' 41,608" E
187	52° 56' 57,243" N	1° 8' 41,601" E
188	52° 56' 57,276" N	1° 8' 41,405" E
189	52° 56' 57,304" N	1° 8' 41,209" E
190	52° 56' 57,335" N	1° 8' 40,949" E
191	52° 56' 57,367" N	1° 8' 40,652" E

192	52° 56' 57,390" N	1° 8' 40,348" E
193	52° 56' 57,409" N	1° 8' 40,076" E
194	52° 56' 57,426" N	1° 8' 39,917" E
195	52° 56' 57,434" N	1° 8' 39,811" E
196	52° 56' 57,442" N	1° 8' 39,576" E
197	52° 56' 57,443" N	1° 8' 39,487" E
198	52° 56' 57,471" N	1° 8' 39,155" E
199	52° 56' 57,517" N	1° 8' 38,578" E
200	52° 56' 57,560" N	1° 8' 37,999" E
201	52° 56' 57,601" N	1° 8' 37,421" E
202	52° 56' 57,628" N	1° 8' 36,995" E
203	52° 56' 57,651" N	1° 8' 36,569" E
204	52° 56' 57,673" N	1° 8' 36,143" E
205	52° 56' 57,696" N	1° 8' 35,716" E
206	52° 56' 57,723" N	1° 8' 35,291" E
207	52° 56' 57,756" N	1° 8' 34,877" E
208	52° 56' 57,791" N	1° 8' 34,520" E
209	52° 56' 57,805" N	1° 8' 34,405" E
210	52° 56' 57,833" N	1° 8' 34,187" E
211	52° 56' 57,854" N	1° 8' 33,996" E
212	52° 56' 57,876" N	1° 8' 33,767" E
213	52° 56' 57,909" N	1° 8' 33,475" E
214	52° 56' 57,937" N	1° 8' 33,262" E
215	52° 56' 57,958" N	1° 8' 33,060" E
216	52° 56' 57,974" N	1° 8' 32,825" E
217	52° 56' 57,988" N	1° 8' 32,547" E
218	52° 56' 57,996" N	1° 8' 32,371" E
219	52° 56' 58,009" N	1° 8' 32,099" E
220	52° 56' 58,026" N	1° 8' 31,698" E
221	52° 56' 58,053" N	1° 8' 31,164" E
222	52° 56' 58,091" N	1° 8' 30,706" E
223	52° 56' 58,128" N	1° 8' 30,178" E
224	52° 56' 58,173" N	1° 8' 29,592" E
225	52° 56' 58,219" N	1° 8' 29,048" E
226	52° 56' 58,278" N	1° 8' 28,431" E
227	52° 56' 58,343" N	1° 8' 27,669" E
228	52° 56' 58,359" N	1° 8' 27,381" E
229	52° 56' 58,372" N	1° 8' 27,216" E
230	52° 56' 58,390" N	1° 8' 26,964" E
231	52° 56' 58,392" N	1° 8' 26,912" E
232	52° 56' 58,403" N	1° 8' 26,797" E
233	52° 56' 58,398" N	1° 8' 26,780" E
234	52° 56' 57,591" N	1° 8' 23,453" E
235	52° 56' 57,607" N	1° 8' 23,312" E
236	52° 56' 57,696" N	1° 8' 22,616" E
237	52° 56' 57,819" N	1° 8' 21,510" E
238	52° 56' 58,021" N	1° 8' 19,543" E
239	52° 56' 58,156" N	1° 8' 18,267" E
240	52° 56' 58,293" N	1° 8' 16,991" E
241	52° 56' 58,371" N	1° 8' 16,290" E

242	52° 56' 58,452" N	1° 8' 15,590" E
243	52° 56' 58,533" N	1° 8' 14,889" E
244	52° 56' 58,611" N	1° 8' 14,188" E
245	52° 56' 58,684" N	1° 8' 13,438" E
246	52° 56' 58,747" N	1° 8' 12,686" E
247	52° 56' 58,808" N	1° 8' 11,957" E
248	52° 56' 58,817" N	1° 8' 11,966" E
249	52° 56' 58,840" N	1° 8' 11,992" E
250	52° 56' 59,726" N	1° 8' 12,960" E
251	52° 57' 0,102" N	1° 8' 13,371" E
252	52° 57' 8,134" N	1° 8' 22,147" E
253	52° 57' 14,357" N	1° 8' 25,824" E
254	52° 57' 22,662" N	1° 8' 28,252" E
255	52° 57' 40,113" N	1° 8' 33,188" E
256	52° 57' 42,426" N	1° 8' 35,383" E
257	52° 57' 52,102" N	1° 8' 56,636" E
258	52° 58' 16,245" N	1° 10' 2,679" E
259	52° 58' 41,839" N	1° 10' 38,668" E
260	52° 59' 7,430" N	1° 11' 14,669" E
261	52° 59' 42,249" N	1° 12' 2,219" E
262	53° 0' 17,064" N	1° 12' 49,789" E
263	53° 0' 35,405" N	1° 13' 4,931" E
264	53° 0' 57,553" N	1° 13' 25,221" E
265	53° 1' 22,451" N	1° 13' 58,051" E
266	53° 1' 27,774" N	1° 14' 5,055" E
267	53° 1' 30,435" N	1° 14' 8,557" E
268	53° 1' 31,101" N	1° 14' 9,432" E
269	53° 1' 31,267" N	1° 14' 9,651" E
270	53° 1' 31,350" N	1° 14' 9,760" E
271	53° 1' 31,433" N	1° 14' 9,870" E
272	53° 1' 31,766" N	1° 14' 10,308" E
273	53° 1' 33,097" N	1° 14' 12,058" E
274	53° 1' 43,742" N	1° 14' 26,066" E
275	53° 1' 54,320" N	1° 14' 36,758" E
276	53° 1' 59,354" N	1° 14' 39,959" E
277	53° 1' 59,983" N	1° 14' 40,359" E
278	53° 2' 0,613" N	1° 14' 40,760" E
279	53° 2' 1,871" N	1° 14' 41,560" E
280	53° 2' 4,388" N	1° 14' 43,161" E
281	53° 2' 14,457" N	1° 14' 49,564" E
282	53° 3' 4,871" N	1° 15' 12,274" E
283	53° 4' 0,089" N	1° 15' 35,690" E
284	53° 4' 23,250" N	1° 15' 46,786" E
285	53° 5' 0,996" N	1° 15' 11,113" E
286	53° 5' 20,705" N	1° 14' 48,183" E
287	53° 5' 33,957" N	1° 13' 54,955" E
288	53° 5' 47,202" N	1° 13' 1,718" E
289	53° 5' 47,266" N	1° 13' 1,677" E
290	53° 5' 47,266" N	1° 13' 1,676" E
291	53° 5' 47,540" N	1° 13' 1,498" E

292	53° 5' 47,545" N	1° 13' 1,495" E
293	53° 5' 50,444" N	1° 12' 59,604" E
294	53° 5' 50,506" N	1° 12' 59,565" E
295	53° 6' 19,018" N	1° 12' 40,975" E
296	53° 6' 19,097" N	1° 12' 40,924" E
297	53° 6' 42,962" N	1° 12' 25,364" E
298	53° 6' 43,080" N	1° 12' 25,287" E
299	53° 7' 12,739" N	1° 12' 5,962" E
300	53° 7' 42,397" N	1° 11' 46,630" E
301	53° 7' 49,968" N	1° 11' 41,694" E
302	53° 8' 12,055" N	1° 11' 27,290" E
303	53° 8' 41,711" N	1° 11' 7,942" E
304	53° 8' 41,717" N	1° 11' 7,938" E
305	53° 8' 49,191" N	1° 11' 3,065" E
306	53° 8' 49,206" N	1° 11' 3,056" E
307	53° 8' 57,559" N	1° 10' 57,610" E
308	53° 8' 57,564" N	1° 10' 57,607" E
309	53° 8' 58,833" N	1° 10' 56,779" E
310	53° 8' 58,859" N	1° 10' 56,762" E
311	53° 9' 10,110" N	1° 10' 9,689" E
312	53° 9' 21,357" N	1° 9' 22,609" E
313	53° 9' 32,598" N	1° 8' 35,522" E
314	53° 9' 43,834" N	1° 7' 48,428" E
315	53° 9' 55,065" N	1° 7' 1,328" E
316	53° 10' 6,290" N	1° 6' 14,221" E
317	53° 10' 17,511" N	1° 5' 27,107" E
318	53° 10' 28,726" N	1° 4' 39,986" E
319	53° 10' 46,425" N	1° 3' 19,628" E
320	53° 11' 4,109" N	1° 1' 59,252" E
321	53° 11' 31,621" N	1° 2' 25,520" E
322	53° 11' 59,131" N	1° 2' 51,798" E
323	53° 12' 26,640" N	1° 3' 18,084" E
324	53° 12' 54,148" N	1° 3' 44,380" E
325	53° 13' 21,654" N	1° 4' 10,686" E
326	53° 13' 49,158" N	1° 4' 37,000" E
327	53° 14' 16,661" N	1° 5' 3,324" E
328	53° 14' 44,162" N	1° 5' 29,657" E
329	53° 14' 10,501" N	1° 6' 22,744" E
330	53° 13' 36,833" N	1° 7' 15,807" E
331	53° 13' 3,158" N	1° 8' 8,847" E
332	53° 12' 29,477" N	1° 9' 1,864" E
333	53° 11' 55,788" N	1° 9' 54,857" E
334	53° 11' 22,093" N	1° 10' 47,828" E
335	53° 10' 48,391" N	1° 11' 40,775" E
336	53° 10' 14,683" N	1° 12' 33,700" E
337	53° 11' 24,043" N	1° 12' 55,421" E
338	53° 12' 33,402" N	1° 13' 17,161" E
339	53° 13' 42,760" N	1° 13' 38,920" E
340	53° 14' 52,117" N	1° 14' 0,698" E
341	53° 16' 1,472" N	1° 14' 22,495" E

342	53° 17' 10,827" N	1° 14' 44,310" E
343	53° 18' 20,180" N	1° 15' 6,145" E
344	53° 19' 29,532" N	1° 15' 27,998" E
345	53° 20' 0,390" N	1° 14' 40,388" E
348	53° 19' 41,748" N	1° 17' 0,577" E
349	53° 18' 56,531" N	1° 16' 15,330" E
350	53° 17' 53,698" N	1° 15' 55,514" E
351	53° 16' 50,863" N	1° 15' 35,713" E
352	53° 15' 48,027" N	1° 15' 15,928" E
353	53° 14' 45,190" N	1° 14' 56,158" E
354	53° 13' 42,353" N	1° 14' 36,404" E
355	53° 12' 39,514" N	1° 14' 16,665" E
356	53° 11' 36,675" N	1° 13' 56,942" E
DEP North		
A.01	53° 19' 31,548" N	1° 13' 30,141" E
A.02	53° 19' 2,699" N	1° 12' 19,932" E
A.03	53° 19' 34,347" N	1° 11' 47,739" E
A.04	53° 20' 5,992" N	1° 11' 15,533" E
A.05	53° 20' 37,635" N	1° 10' 43,313" E
A.06	53° 21' 9,275" N	1° 10' 11,081" E
A.07	53° 21' 9,340" N	1° 11' 6,237" E
A.08	53° 21' 9,399" N	1° 12' 1,393" E
A.09	53° 21' 9,451" N	1° 12' 56,550" E
A.10	53° 21' 9,495" N	1° 13' 51,706" E
A.11	53° 21' 9,533" N	1° 14' 46,863" E
A.12	53° 21' 9,563" N	1° 15' 42,020" E
A.13	53° 21' 9,584" N	1° 16' 30,130" E
A.14	53° 21' 9,602" N	1° 17' 32,335" E
A.15	53° 20' 46,340" N	1° 18' 7,238" E
A.16	53° 20' 58,886" N	1° 18' 37,507" E
A.17	53° 21' 16,936" N	1° 18' 58,324" E
A.18	53° 21' 24,406" N	1° 19' 46,805" E
A.19	53° 21' 27,180" N	1° 20' 4,816" E
A.20	53° 21' 37,414" N	1° 21' 11,318" E
A.21	53° 21' 47,638" N	1° 22' 17,828" E
A.22	53° 21' 57,851" N	1° 23' 24,348" E
A.23	53° 21' 25,995" N	1° 23' 42,880" E
A.24	53° 20' 54,139" N	1° 24' 1,404" E
A.25	53° 20' 5,326" N	1° 24' 0,033" E
A.26	53° 19' 36,128" N	1° 24' 8,276" E
A.27	53° 19' 9,827" N	1° 24' 23,580" E
A.28	53° 18' 34,113" N	1° 25' 3,960" E
A.29	53° 18' 17,503" N	1° 25' 24,511" E
A.30	53° 18' 0,222" N	1° 25' 39,259" E
A.31	53° 17' 15,148" N	1° 26' 5,612" E
A.32	53° 17' 35,036" N	1° 25' 24,340" E
A.33	53° 17' 54,920" N	1° 24' 43,056" E
A.34	53° 18' 14,801" N	1° 24' 1,762" E
A.35	53° 18' 34,677" N	1° 23' 20,458" E
A.36	53° 18' 35,113" N	1° 22' 55,059" E

A.37	53° 18' 9,353" N	1° 22' 14,077" E
A.38	53° 18' 55,523" N	1° 20' 33,698" E
A.39	53° 18' 18,216" N	1° 19' 28,603" E
A.40	53° 18' 23,044" N	1° 19' 18,170" E
A.41	53° 16' 40,497" N	1° 19' 9,998" E
A.42	53° 17' 29,099" N	1° 18' 30,623" E
A.43	53° 18' 17,849" N	1° 17' 51,100" E
A.44	53° 18' 52,654" N	1° 17' 33,836" E
A.45	53° 19' 27,459" N	1° 17' 16,563" E

DEP South

B.01	53° 14' 5,405" N	1° 25' 52,576" E
B.02	53° 13' 44,764" N	1° 27' 26,148" E
B.03	53° 13' 21,538" N	1° 28' 1,214" E
B.04	53° 12' 58,309" N	1° 28' 36,270" E
B.05	53° 12' 35,077" N	1° 29' 11,315" E
B.06	53° 12' 11,842" N	1° 29' 46,349" E
B.07	53° 11' 48,603" N	1° 30' 21,373" E
B.08	53° 11' 25,362" N	1° 30' 56,387" E
B.09	53° 11' 2,118" N	1° 31' 31,390" E
B.10	53° 10' 38,872" N	1° 32' 6,382" E
B.11	53° 10' 16,470" N	1° 31' 10,439" E
B.12	53° 9' 54,062" N	1° 30' 14,512" E
B.13	53° 9' 31,646" N	1° 29' 18,602" E
B.14	53° 9' 9,223" N	1° 28' 22,708" E
B.15	53° 9' 18,541" N	1° 27' 23,002" E
B.16	53° 9' 42,205" N	1° 26' 28,216" E
B.17	53° 10' 5,861" N	1° 25' 33,413" E
B.18	53° 12' 11,085" N	1° 25' 43,428" E

7. This marine licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

8. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine licence except that the provisions of section 72(7) and (8) relating to the transfer of the marine licence apply only to a transfer not falling within article 5 (benefit of order) of the Order.

9.—(1) With respect to any condition which requires the licensed activities be carried out in accordance with the details, plans or schemes approved under this marine licence, the approved details, plans or schemes are taken to include any amendments that may subsequently be approved in writing by the MMO.

(2) Any amendments to or variations from the approved details, plans or schemes must be in accordance with the principles and assessments set out in the environmental statement and approval of an amendment or variation may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

10. Should the undertaker become aware that any of the information on which the granting of this marine licence was based was materially false or misleading, the undertaker must notify the MMO of this fact in writing as soon as is reasonably practicable. The undertaker must explain in

writing what information was materially false or misleading and must provide to the MMO the correct information.

PART 2

Conditions

Design parameters

Offshore Substation Platform

1.—(1) The dimensions of the offshore substation platform in Work No. 3B or 3C (excluding towers, masts and cranes) must not exceed—

- (a) 70 metres in length;
- (b) 40 metres in width; or
- (c) 50 metres in height above HAT.

(2) Offshore substation platform foundation in Work No. 3B or 3C must be of one of the following foundation options: piled jacket or suction bucket jacket.

(3) The offshore substation platform foundation in Work No. 3B or 3C must not—

- (a) have more than four legs;
- (b) have more than eight piles;
- (c) have a pile diameter exceeding 3.5 metres;
- (d) employ a hammer energy during installation exceeding 3,000 kilojoules;
- (e) have a seabed footprint (excluding subsea scour protection) exceeding 452 square metres; or
- (f) have a seabed footprint (including subsea scour protection) exceeding 4761 square metres.

(4) The total amount of scour protection for the offshore substation platform in Work No. 3B or 3C must not exceed 4054 square metres.

(5) The total volume of scour protection for the offshore substation platform in Work No. 3B or 3C must not exceed 7297 cubic metres.

Cables and cable protection

2.—(1) In the event of scenario 1, scenario 2, scenario 3 within Work Nos. 3B to 5B the offshore export cables must not, in total—

- (a) exceed one in number;
- (b) exceed 62 kilometres in length;
- (c) exceed four cable crossings;
- (d) have cable protection (including cable crossings) exceeding 9,504 square metres in area; or
- (e) have cable protection (including cable crossings) exceeding 6885 cubic metres in volume.

(2) In the event of scenario 1, scenario 2 or scenario 3, within Work Nos. 4B the interlink cables must not, in total—

- (a) exceed three in number;
- (b) exceed 66 kilometres in length;
- (c) exceed six cable crossings;
- (d) have cable protection (including cable crossings) exceeding 6708 square metres in area; or

- (e) have cable protection (including cable crossings) exceeding 1896 cubic metres in volume.
- (3) In the event of scenario 4 within Work Nos. 3C to 5C, the offshore export cables must not, in total—
- (a) exceed two in number;
 - (b) exceed 80 kilometres in length;
 - (c) exceed eight cable crossings;
 - (d) have cable protection (including cable crossings) exceeding 16,008 square metres in area; or
 - (e) have cable protection (including cable crossings) exceeding 12,645 cubic metres in volume.
- (4) In the event of scenario 4, within Work Nos. 4C the interlink cables must not, in total—
- (a) exceed seven in number;
 - (b) exceed 154 kilometres in length;
 - (c) exceed six cable crossings;
 - (d) have cable protection (including cable crossings) exceeding 12,708 square metres in area; or
 - (e) have cable protection (including cable crossings) exceeding 3396 cubic metres in volume.

Scenarios and Phases of authorised project

3.—(1) The authorised project must not be commenced until a notification has been submitted to the MMO as to whether the undertaker intends to commence scenario 1, scenario 2, scenario 3 or scenario 4.

(2) The notification required under sub-paragraph (1) must be submitted to the MMO prior to submission of the written scheme to be submitted for approval under sub-paragraph (3).

(3) The authorised project must not be commenced until a written scheme setting out (with regards to the relevant scenario notified under sub-paragraph (1)) the phases of construction of the authorised project has been submitted to and approved in writing by the MMO.

(4) Any subsequent amendments to the written scheme submitted for approval under sub-paragraphs (3) must be submitted to, and approved by, the MMO.

(5) The written scheme submitted for approval under sub-paragraphs (3) must be implemented as approved. The approved details shall be taken to include any amendment that may subsequently be approved in accordance with sub-paragraph (4).

Vessels under the undertaker's control

4.—(1) The undertaker must issue to operators of vessels under the undertakers control operating within the Order limits a code of conduct to reduce risk of injury to marine mammals.

Extension of time periods

5. Any time period given in this marine licence to either the undertaker or the MMO may be extended with the agreement of the other party, such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

6.—(1) The undertaker must ensure that—

- (a) a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—

- (i) all agents and contractors notified to the MMO in accordance with condition 16;
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 16; and
- (b) within 28 days of receipt of a copy of this marine licence and any subsequent amendments or revisions to it, those persons referred to in sub-paragraph (1)(a) must confirm receipt of this marine licence in writing to the MMO .
- (2) Only those persons and vessels notified to the MMO in accordance with condition 16 are permitted to carry out the licensed activities.
- (3) Copies of this marine licence must also be available for inspection at the following locations—
- (a) the undertaker’s registered address;
 - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
 - (c) on board each vessel and at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3).
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised project.
- (6) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licensed activity.
- (7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details of the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—
- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data;
 - (b) on completion of construction of all offshore activities,
- and confirmation of notification must be provided to the MMO within five days.
- (8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised project or any part thereof advising of the start date of each of Work Nos. 3B, 4B, 5B, 6B and 7B in the event of scenario 1, scenario 2 or scenario 3 or 3C, 4C, 5C, 6C and 7C in the event of scenario 4 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.
- (9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations (or otherwise agreed) and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme and monitoring plan approved under condition 12(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.
- (10) The undertaker must notify UKHO of:—
- (a) commencement of the licensed activities at least ten working days prior to commencement; and
 - (b) completion (within fourteen days) of the authorised project or any part thereof in order that all necessary amendments to nautical charts are made. Copies of all notices must be provided to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised project or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and UKHO.

(12) In case of the exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of Seafish of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, and UKHO within five days.

Aids to navigation

7.—(1) The undertaker must during the whole of the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as Trinity House may from time to time direct.

(2) The undertaker must during the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project keep Trinity House and the MMO informed of progress of the authorised project including—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 12(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the period from commencement of the licensed activities to completion of decommissioning of the authorised project notify Trinity House and the MMO of any failure of the aids to navigation, and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 6(11) and condition 6(12) are invoked the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of structures

8. Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised project yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House. Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures grey (colour code RAL 7035).

Aviation safety

9.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by the Air Navigation Order 2016 and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the authorised project, in writing of the following information—

- (a) the date of the commencement of construction of the authorised project;
- (b) the date any offshore substation platforms are brought into use;

- (c) the maximum height of any construction equipment to be used;
- (d) the maximum height of each offshore substation platform to be constructed;
- (e) the latitude and longitude of each offshore substation platform to be constructed;

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised project. Copies of notifications must be provided to the MMO within five days.

Chemicals, drilling and debris

10.—(1) Unless otherwise agreed in writing by the MMO, the carriage and use of chemicals in the construction of the authorised project must comply with the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110 percent of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO in writing of the location and quantities of material disposed of each month under this marine licence by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during pre-sweeping sandwave clearance where relevant, the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost below MHWS, the undertaker must report the loss in writing to the local enforcement office within 24 hours and if the MMO, in consultation with the MCA and Trinity House, reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must, in that event, demonstrate to the MMO that reasonable attempts have been made to locate, remove or move any such material.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 12(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

11. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the

safety of human life or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

Pre-construction plans and documentation

12.—(1) The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO, in consultation with Trinity House, the MCA and UKHO as appropriate—

- (a) a plan prepared in accordance with the layout commitments setting out proposed details of the authorised project, including the:
 - (i) number, dimensions, specification, foundation type(s) and depth for each wind turbine generator, offshore platform and substation;
 - (ii) the grid coordinates of the centre point of the proposed location for each wind turbine generator, platform and substation;
 - (iii) proposed layout of all cables;
 - (iv) location and specification of all other aspects of the authorised project; and
 - (v) any exclusion zones or micro-siting requirements identified pursuant to 12(1)(f)(v) or relating to any benthic habitats of conservation, ecological or economic importance constituting Annex I reef habitats identified as part of surveys undertaken in accordance with condition 17;

to ensure conformity with the description of Work Nos. 3B to 7B in the event of scenario 1, 2 or 3, or 3C to 5C and 7C in the event of scenario 4 and compliance with conditions 1 and 2;

- (b) a construction programme and monitoring plan (which accords with the offshore in principle monitoring plan) which, save in respect information submitted pursuant to subparagraph (b)(iii)(aa), is to be submitted to the MMO at least six months prior to commencement of licensed activities and to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works;
 - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction surveys and monitoring and related reporting in accordance with conditions 17, 18 and 19 to be submitted to the MMO in accordance with the following (unless otherwise agreed in writing with the MMO) —
 - (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed pre-construction monitoring;
 - (bb) at least four months prior to construction, detail on construction monitoring; and
 - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;
 - (iv) an indicative written construction programme for all offshore substation platforms and cables including fibre optic cables comprised in the works at Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);
- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
 - (i) cable specification, installation and monitoring for cables located outside of the Cromer Shoal Chalk Beds Marine Conservation Zone to include—
 - (aa) the technical specification of cables below MHWS;
 - (bb) a detailed cable laying plan for the authorised project, incorporating a burial risk assessment encompassing the identification of any cable protection that

exceeds 5 percent of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5 percent of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and

- (cc) proposals for monitoring cables including cable protection until the authorised project is decommissioned which includes a risk-based approach to the management of unburied or shallow buried cables;
 - (ii) scour protection and cable protection including details of the need, type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
 - (iii) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph (1)(i);
 - (iv) advisory safe passing distances for vessels around construction sites;
 - (v) contractors;
 - (vi) vessels and vessel transit corridors;
 - (vii) associated ancillary works; and
 - (viii) guard vessels to be employed;
- (d) a project environmental management plan (in accordance with the outline project environmental management plan) covering the period of construction and operation to include details of—
- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised project in relation to all activities carried out;
 - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 4 and to address the interaction of the licensed activities with fishing activities; and
 - (vi) procedures, which must be adopted within vessel transit corridors to minimise disturbance to red-throated diver during the period 1 November to 31 March (inclusive), which must be in accordance with the best practice protocol for minimising disturbance to red throated diver;
 - (vii) a code of conduct for vessel operators to reduce risk of injury to mammals;
- (e) a cable specification, installation and monitoring plan for the installation of cables within the Cromer Shoal Chalk Beds Marine Conservation Zone (in accordance with the outline Cromer Shoal Chalk Beds Marine Conservation Zone cable specification, installation and monitoring plan);
- (f) an archaeological written scheme of investigation in relation to the offshore Order limits seaward of MHWS, which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—

- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
- (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
- (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
- (v) monitoring of archaeological exclusion zones during and post construction;
- (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS ('Online Access to the Index of archaeological investigations') form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
- (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
- (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;
- (g) an offshore operations and maintenance plan (in accordance with the outline offshore operations and maintenance plan), to be submitted to the MMO at least six months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;
- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House specifying how the undertaker will ensure compliance with condition 7 from the commencement of construction of the authorised project to the completion of decommissioning;
- (i) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies, to be submitted to the MMO at least six months prior to commencement of licensed activities;
- (j) a mitigation scheme for any benthic habitats of conservation, ecological and/or economic importance constituting Annex I reef habitats and including the designated features of the MCZ identified by the survey referred to in condition 17(4)(a) and in accordance with the offshore in principle monitoring plan;
- (k) an ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances to be submitted to the MMO at least six months prior to commencement of licensed activities; and
- (l) a navigation management plan to manage crew transfer vessels (including daughter craft) during the construction and operation of the authorised project.

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline written scheme of investigation (offshore)) which has been submitted to and approved by the MMO.

Site Integrity Plan

13.—(1) No piling activities can take place until a Site Integrity Plan (“SIP”), which accords with the principles set out in the in principle Site Integrity Plan for the Southern North Sea Special Area of Conservation, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (“SNS SAC”) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted in writing to the MMO no later than six months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the preconstruction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.

14.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 12 must be submitted for approval at least four months before the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The MMO must determine an application for approval made under conditions 12 and 13 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(3) The licensed activities must be carried out in accordance with the plans, protocols, statements, schemes and details approved under conditions 12 and 13, unless otherwise agreed in writing by the MMO.

Offshore safety management

15. No part of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it) and its annexes.

Reporting of engaged agents, contractors and vessels

16.—(1) The undertaker must provide the following information in writing to the MMO—

- (a) the name, function, company number (if applicable), registered or head office address (as appropriate) of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) The undertaker must notify the MMO in writing of any vessel being used to carry on any licensed activity listed in this marine licence on behalf of the undertaker. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity. Notification must include the master’s name, vessel type, vessel IMO number and vessel owner or operating company

(3) Any changes to the supplied details must be notified to the MMO in writing at least 24 hours before the agent, contractor or vessel engages in the licensed activities.

Pre-construction monitoring and surveys

17.—(1) The undertaker must, in discharging condition 12(1)(b), submit a monitoring plan or plans in accordance with the offshore in principle monitoring plan for written approval in writing by the MMO in consultation with the relevant statutory nature conservation body, which must contain details of proposed monitoring and surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report.

(2) The survey proposals submitted under sub-paragraph (1) must be in general accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The baseline report proposals submitted under sub-paragraph (1) must ensure that the outcome of the agreed surveys, together with existing data and reports, are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(4) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats in the parts of the Order limits in which it is proposed to carry out construction works;
- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works;
- (c) undertake or contribute to any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 12(1)(i); and
- (d) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 12(1)(k).

(5) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Construction monitoring and surveys

18.—(1) The undertaker must, in discharging condition 12(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring and surveys including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(3) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) The results of the initial noise measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the reasonable opinion of the MMO in consultation with the relevant

statutory nature conservation body, the assessment shows significantly different impacts to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(5) The undertaker must carry out the surveys specified in the construction monitoring plan in accordance with that plan, including any further noise monitoring required in writing by the MMO under sub-paragraph (4), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(6) Construction monitoring must include vessel traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring at the end of each year of the construction period to the MMO, MCA and Trinity House.

(7) In the event that piled foundations are proposed to be used, the details submitted in accordance with the marine mammal mitigation protocol must include proposals for monitoring marine mammals.

Post-construction monitoring and surveys

19.—(1) The undertaker must, in discharging condition 12(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of proposed post-construction monitoring and surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results.

(2) The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to—

- (a) undertake an appropriate survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) undertake, within twelve months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected;
- (c) undertake any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 12(1)(k);
- (d) undertake post-construction traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring to the MMO, the MCA and Trinity House;
- (e) undertake or contribute to any marine mammal monitoring referred to in the marine mammal mitigation protocol submitted in accordance with condition 12(1)(i); and
- (f) undertake monitoring of cables installed within the Cromer Shoal Chalk Beds MCZ in accordance with any monitoring required by the cable specification, installation and monitoring plan for the installation of cables within the Cromer Shoal Chalk Beds Marine Conservation Zone submitted in accordance with condition 12(1)(e).

(4) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports to the MMO in the agreed format in accordance with the agreed timetable, unless

otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(5) Following installation of cables, the cable monitoring plans required under conditions 12(1)(c) and 12(1)(e) must be updated with the results of the post installation surveys. The plans must be implemented until the authorised scheme is decommissioned and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

(6) In the event that the reports provided to the MMO under sub-paragraph (4) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with the MMO in writing and implemented as agreed.

~~(6)~~(7) In the event that the reports provided to the MMO under sub-paragraph (4) identify that there are significant adverse effects post-mitigation, the Applicant shall notify the MMO and the relevant ANCBs of this in writing with a view to agreeing to a course of adaptive management/mitigation to reduce such effects. In the event that this adaptive management/mitigation requires a separate consent, the Applicant shall apply for such consent. Any such agreed or approved adaptive management/mitigation should be implemented in full to a timetable first agreed in writing with the MMO.

Reporting of scour and cable protection

20.—(1) Not more than four months following completion of the construction of the authorised project, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the authorised project.

(2) The report must include the following information—

- (a) the location of cable protection and scour protection;
- (b) the volume of cable protection and scour protection; and
- (c) any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker.

Completion of construction

21.—(1) The undertaker must submit a close out report to the MMO, the MCA, Trinity House, UKHO and the relevant statutory nature conservation body within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include details of the latitude and longitude coordinates of the export cables, provided as Geographical Information System data referenced to WGS84 datum.

(2) Following completion of construction, no further construction activities can be undertaken under this marine licence.

Sediment Sampling

22.—(1) The undertaker must submit a sample plan request in writing to the MMO for written approval of a sample plan.

(2) The sample plan request must be made—

- (a) or capital dredging, at least six months prior to the commencement of any capital dredging; or
- (b) for maintenance dredging, at least six months prior to the end of every third year from the date of the previous sediment sample analysis.

(3) The sample plan request must include details of—

- (a) the volume of material to be dredged;
- (b) the location of the area to be dredged;
- (c) details of the material type proposed for dredging;
- (d) the type and dredging methodology (including whether it is a capital or maintenance dredge, depth of material to be dredged and proposed programme for the dredging

activities); and

(e) the location and depth of any supporting samples.

(4) Unless otherwise agreed by the MMO, the undertaker must undertake the sampling in accordance with the approved sample plan.

Collaboration

23.—(1) Prior to submission of plans and documentation required to be submitted to the MMO for approval in accordance with conditions 12 and 13, the undertaker must provide a copy of the relevant plans and documentation to SEL to enable SEL to provide any comments on the plans and documentation to the undertaker.

(2) The plans and documentation submitted to the MMO for approval in accordance with conditions 12 and 13 must be accompanied by any comments received by the undertaker from SEL in accordance with sub-paragraph (1) or a statement from the undertaker confirming that no such comments were received.

Seasonal Restriction

24.—(1) The undertaker must not carry out any cable installation works within the GW during the winter period.

(2) For the purpose of this condition—

“the GW” means the site designated as the Greater Wash Special Protection Area;

“winter period” means the period between 1 November to 31 March inclusive.

Obstacle free zone for navigational safety

25.—(1) No infrastructure of any type included within the offshore works, including wind turbine generators and offshore substation platforms, shall be installed within the area defined by the coordinates as specified below and no part of any wind turbine generator, including its blades, may overfly into the area:

<u>Point ID of the area</u>	<u>Latitude (D°M.MM')</u>	<u>Longitude (D°M.MM')</u>
<u>A (NW corner)</u>	<u>53° 21.1541' N</u>	<u>1° 10.1853' E</u>
<u>B (SW corner)</u>	<u>53° 19.0449' N</u>	<u>1° 12.3327' E</u>
<u>C (NE corner)</u>	<u>53° 21.1558' N</u>	<u>1° 11.8346' E</u>
<u>D (SE corner)</u>	<u>53° 19.5696' N</u>	<u>1° 13.6102' E</u>

SCHEDULE 14

Article 41

Protective provisions

PART 1

Protection of electricity, gas, water and sewerage undertakers

1. For the protection of the undertakers referred to in this Part the following provisions must, unless otherwise agreed in writing between the undertaker and the affected undertaking concerned, have effect.

2. In this Part—

“affected undertaker” means—

- any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- a water undertaker within the meaning of the Water Industry Act 1991; and
- a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991;

for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

“alternative apparatus” means alternative apparatus adequate to enable the affected undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989) belonging to or maintained by that licence holder;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by the affected undertaker for the purposes of water supply; and any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service

pipe at future date) of the Water Industry Act 1991 at the time of the works mentioned in this Part; and

- (d) in the case of a sewerage undertaker—
- (i) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act;

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

3. This Part does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Acquisition of land

4. Regardless of any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed that apparatus must not be removed under this Part, and any right of an affected undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the affected undertaker in question 28 days’ written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an affected undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the affected undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the affected undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the affected undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (*arbitration*).

(5) The affected undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 43 (*arbitration*), and after the grant to the affected undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the affected undertaker in question that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the affected undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the affected undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Facilities and rights for alternative apparatus

6.—(1) Where, in accordance with the provisions of this Part, the undertaker affords to an affected undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the affected undertaker in question or in default of agreement settled by arbitration in accordance with article 43 (*arbitration*).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the affected undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that affected undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

7.—(1) Not less than 28 days before starting the execution of any works of the type referred to in sub-paragraph 5(2) that are required within 15 metres, or will or may affect, any apparatus the removal of which has not been required by the undertaker under sub-paragraph 5(2) the undertaker must submit to the affected undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the affected undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the affected undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) are to be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) is submitted to it.

(4) If an affected undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new

plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the affected undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

Expenses and costs

8.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to an affected undertaker the reasonable expenses incurred by that affected undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus (including costs or compensation payable in connection with the acquisition of land for that purpose) which may be required in consequence of the execution of any such works as are referred to in sub-paragraph 5(2).

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated;

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 43 (*arbitration*) to be necessary then, if such placing involves cost exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the affected undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an affected undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the affected undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

9.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2) any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that affected undertaker in making good such damage or restoring the supply; and

- (b) make reasonable compensation to that affected undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker;

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) An affected undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Miscellaneous

10. Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and an affected undertaker in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

11. Any difference or dispute arising between the undertaker and the affected undertaker under this Part must, unless otherwise agreed in writing between the undertaker and the affected undertaker, be determined by arbitration in accordance with article 43 (*arbitration*).

PART 2

Protection for operators of electronic communications code networks

1. For the protection of any operator, the following provisions shall, unless otherwise agreed in writing between the undertaker and the operator, have effect.

2. In this Part—

“the 2003 Act” means the Communications Act 2003;

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system I construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“electronic communications code” has the same meaning as in Chapter 1 of Part 2 (networks, services and the radio spectrum) of the 2003 Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

3. The exercise of the powers conferred by article 28 (*statutory undertakers*) is subject to Part 10 of Schedule 3A (the electronic communications code) to the 2003 Act.

4.—(1) Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of

its intended removal for the purposes of the authorised development, or other property of an operator); or

(b) there is any interruption in the supply of the service provided by an operator;

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part must be referred to and settled by arbitration under article 43 (*arbitration*).

(5) This Part does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised project.

(6) Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED

1. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

2. In this Part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging

proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

”railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment;

“specified work” means so much of any of the authorised development as is or is to be situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 4 (maintenance of authorised development) in respect of such works.

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property or rights over railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

4.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 3 (development consent granted by the Order);
- (b) article 4 (maintenance of authorised development);
- (c) article 14 (discharge of water);
- (d) article 16 (authority to survey and investigate the land);
- (e) article 18 (compulsory acquisition of land);
- (f) article 20 (compulsory acquisition of rights);
- (g) article 21 (private rights over land);
- (h) article 23 (acquisition of subsoil or airspace only);
- (i) article 25 (rights under or over streets);
- (j) article 26 (temporary use of land for carrying out the authorised project);
- (k) article 27 (temporary use of land for maintaining the authorised project);
- (l) article 28 (statutory undertakers);
- (m) article 34 (felling or lopping of trees or removal of hedgerows);
- (n) article 35 (trees subject to tree preservation orders);
- (o) the powers conferred by section 11(3) (power of entry) of the 1965 Act;
- (p) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 28 (*statutory undertakers*) in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third-party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained without the consent of Network Rail or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

5.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer (or by deemed approval under sub-paragraph (2) or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;

- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

7. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

9.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work or during a period of 24 months after or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 5(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 10(a) provide such details of the formula or method of calculation by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

10. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 5(3) or in constructing any protective works under the provisions of paragraph 5(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

11.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the onshore works where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the onshore works giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the onshore works take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must without unreasonable delay make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) has effect subject to the sub-paragraph.

(6) If any time before the commencement of regular revenue earning operations of the authorised development the undertaker shall test the use of the authorised development and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must without unreasonable delay make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 43 (*arbitration*) to the Secretary of State shall be read as a reference to the Institution of Engineering and Technology.

12. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as to not adversely affect railway property.

13. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the date on which this Order is made by reason of the existence of a specified work must, provided that 56 days'

previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

15.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

16. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or

claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

17. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

18. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

19. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

20. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 5 (benefit of order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

21. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 38 (*certification of plans and documents etc.*) are certified by the Secretary of State, provide a set of those plans to Network Rail in electronic format.

22. In relation to any dispute arising under this part of this Part of this Schedule the provisions of article 43 (*arbitration*) will apply.

PART 4

For the protection of the Environment Agency

1.—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule—

“Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” is construed accordingly;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

“main river” has the same meaning given in section 113 of the Water Resources Act 1991;

“plans” includes sections, drawings, specifications, calculations and method statements;

“remote defence” means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within;

- (a) 8 metres of the base of a remote defence which is likely to –
 - (i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence, or
 - (ii) interfere with the Agency’s access to or along that remote defence;
- (b) 8 metres of a drainage work or is otherwise likely to—
 - (i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
 - (ii) affect the flow, purity or quality of water in any watercourse or other surface waters
 - (iii) cause obstruction to the free passage of fish or damage to any fishery;
 - (iv) affect the conservation, distribution or use of water resources; or
 - (v) affect the conservation value of the main river and habitats in its immediate vicinity;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.

Submission and approval of plans

2.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 12.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval; and
- (c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b)

(5) In the case of a refusal, if requested to do so the Agency must provide reasons for the grounds of that refusal.

Construction of protective works

3. Without limiting paragraph 2 the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or

(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,
by reason of any specified work.

Timing of works and service of notices

4.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 3, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work to which the protective works relate.

Works not in accordance with this Schedule

5.—(1) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(2) Subject to sub-paragraph (3) if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (1) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(3) In the event of any dispute as to whether sub-paragraph (1) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (2) until the dispute has been finally determined in accordance with paragraph 12.

Maintenance of works

6.—(1) Subject to sub-paragraph (6) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the Order limits and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5) if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 12.

(6) This paragraph does not apply to-

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work expressly authorised in the approval of specified works plans and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

Remediating impaired drainage work

7. If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

Agency access

8. If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of or as soon as reasonably practicable after the undertaker becoming aware of such obstruction.

Free passage of fish

9.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker

fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

Indemnity

10.—(1) The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may incur —

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and
- (c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

11.—(1) The undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out of—

- (a) the authorised development; or
- (b) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or
- (c) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(2) For the avoidance of doubt, in sub-paragraph 1

- (a) “costs” includes—
 - (i) expenses and charges;
 - (ii) staff costs and overheads;
 - (iii) legal costs;
- (b) “losses” includes physical damage.
- (c) “claims” and “demands” include as applicable—
 - (i) costs (within the meaning of sub-paragraph (2(i))) incurred in connection with any claim or demand;
 - (ii) any interest element of sums claimed or demanded;
- (d) “liabilities” includes—
 - (i) contractual liabilities;
 - (ii) tortious liabilities (including liabilities for negligence or nuisance);
 - (iii) liabilities to pay statutory compensation or for breach of statutory duty;
 - (iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(3) The Agency must give to the undertaker reasonable notice of any such claim or demand and must not settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(4) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(5) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or

award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

(6) Nothing in this paragraph imposes any liability on the undertaker with respect to any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the Agency, its officers, servants, contractors or agents.

Disputes

12. Any dispute arising between the undertaker and the Agency under this Part of this Schedule must, if the parties agree, be determined by arbitration under article 43 (*arbitration*), but failing agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Business, Energy and Industrial Strategy or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 5

For the protection of the drainage authorities

1. The provisions of this Part have effect for the protection of a drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

2. In this Part of this Schedule—

“the Board” means Norfolk Rivers Internal Drainage Board;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation; and

“construct” and “constructed” must be construed accordingly;

“drainage authority” means—

- (a) in relation to an ordinary watercourse in an internal drainage district, the Board;
- (b) in relation to an ordinary watercourse in an area outside an internal drainage district, the lead local flood authority.

“drainage work” means any watercourse and includes any land that provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence;

“evidence” includes hydraulic modelling, infiltration test results and geotechnical evaluations;

“internal drainage district” has the meaning given in the Land Drainage Act 1991(a);

“lead local flood authority” means Norfolk County Council in accordance with the Flood and Water Management Act 2010;

“ordinary watercourse” has the meaning given in the Land Drainage Act 1991

“plans” includes sections, drawings, specifications, calculations and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work;
- (b) affect the total volume or volumetric rate of flow of water in or flowing to or from any drainage work;
- (c) affect the flow of water in any drainage work or other surface waters or ground water;
- (d) affect the conservation, distribution or use of water resources;

(a) 1991 c. 59. Section 23 was amended by paragraph 192 of Schedule 22 to, the Environment Act 1995 c. 25, and by paragraph 32 of Schedule 2 to, the Flood and Water Management Act 2010 c. 29.

“watercourse” has the meaning given in the Land Drainage Act 1991 and for the avoidance of doubt includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer; and

“working day” means any day which is not Saturday, Sunday, a bank holiday or other public holiday in England.

3.—(1) Before beginning to construct any specified work, the undertaker must submit to the relevant drainage authority plans of the specified work, evidence to support said plans and any such further particulars available to it as the relevant drainage authority may within 28 working days of the submission of the plans reasonably require.

(2) At least 30 days prior submission of information pursuant to paragraph 3(1), the undertaker must submit relevant plans and evidence to support said plans to the relevant drainage authority and engage in pre-submission discussions in relation to those.

(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the relevant drainage authority, or determined under sub-paragraph (3).

(4) Any approval of the relevant drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval or submission of further particulars (where required by the relevant drainage authority under sub-paragraph (1)) whichever is the later; and
- (c) may be given subject to such reasonable requirements and conditions as the relevant drainage authority may consider appropriate.

(5) The relevant drainage authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

(6) Any refusal under this paragraph must be accompanied by a statement of the grounds of refusal.

4. Without limiting paragraph 3, the requirements which the relevant drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased, by reason of any specified work.

5.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the relevant drainage authority under paragraph 4 must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the relevant drainage authority and an officer of the relevant drainage authority is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the relevant drainage authority—

- (a) not less than 14 days’ notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the completion of construction.

(3) If the relevant drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of the specified work.

(4) If any part of a specified work or any protective work required by the relevant drainage authority is constructed otherwise than in accordance with the requirements of this Part, the relevant drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part or (if the undertaker so elects and the relevant drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to the reasonable satisfaction of the relevant drainage authority to such extent and within such limits as the relevant drainage authority may reasonably require.

(5) Subject to sub-paragraph (6) and paragraph 10 if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice or subsequently made reasonably expeditious progress towards their implementation, the relevant drainage authority may execute the works specified in the notice and any expenditure reasonably incurred by the relevant drainage authority in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the relevant drainage authority must not except in the case of an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 12.

6.—(1) Subject to sub-paragraph (6) the undertaker must from the commencement of the construction of the specified work maintain in good repair and condition and free from obstruction any drainage work which is situated within the Order limits and on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the relevant drainage authority, the relevant drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the relevant drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the relevant drainage authority reasonably requires.

(3) Subject to sub-paragraph (5) if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the relevant drainage authority may do what is necessary for such compliance and may, subject to paragraph 10, recover any expenditure reasonably incurred by the relevant drainage authority in so doing from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the relevant drainage authority in accordance with this Part of this Schedule the relevant drainage authority may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph **Error! Reference source not found.**, the relevant drainage authority must not except in the case of an emergency exercise the powers conferred by sub-paragraph **Error! Reference source not found.** until the dispute has been finally determined in accordance with paragraph 12.

(6) This paragraph 6 does not apply to:

- (a) drainage works which are vested in the relevant drainage authority or which the relevant drainage authority or another person is liable to maintain and is not proscribed by the powers of the Order from doing; and

- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part.

7. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker to the reasonable satisfaction of the relevant drainage authority and, if the undertaker fails to do so, the relevant drainage authority may make good the impairment or damage and recover expenditure from the undertaker the expense reasonably incurred by it in doing so.

8. If by reason of construction of the specified work the relevant drainage authority access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the relevant drainage authority to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of the undertaker becoming aware of such obstruction.

9.—(1) The undertaker must indemnify and compensate the relevant drainage authority in respect of all costs, charges and expenses, the relevant drainage authority may reasonably incur by reason of—

- (a) the review, examination or approval of plans and supporting evidence under this Part;
- (b) the inspection of the proposed site for construction and construction of the specified work or any protective works required by the relevant drainage authority under this Part; and
- (c) the carrying out of any surveys or tests by the relevant drainage authority which are reasonably required in connection with the construction of the specified works.

(2) Any demands made by a drainage authority in respect of costs, charges and expenses subparagraph (1) must be accompanied by evidence.

10.—(1) Without limiting the other provisions of this Part, the undertaker must indemnify and compensate the relevant drainage authority in respect of all reasonable claims, demands, proceedings, costs, damages, expenses or loss that may be made or taken against, recovered from or incurred by the relevant drainage authority by reason of—

- (a) the construction, operation or maintenance of any specified works or the failure of any such works comprised within them;
- (b) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (c) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged on upon the construction, operation or maintenance of the specified works or dealing with any failure of the specified works; and
- (d) any raising or lowering of the water table in land adjoining the authorised works or any sewers, drains and watercourses; or
- (e) any flooding or increased flooding of any such land.

(2) The relevant drainage authority must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise can be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(3) The fact that any work or thing may have been done by the undertaker in accordance with a plan approved or deemed approved by the relevant drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part.

11. Any dispute arising between the undertaker and the relevant drainage authority under this Part, if the parties agree, must be determined by arbitration under article 43 (arbitration) but otherwise must be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Business, Energy and Industrial Strategy or its

successor acting jointly on a reference to them by the undertaker or the relevant drainage authority, after notice in writing by one to the other.

PART 6

For the protection of National Gas Transmission Plc as Gas Undertaker

Application

1.—(1) For the protection of National Gas Transmission as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas Transmission.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Gas Transmission, where the benefit of this Order is transferred or granted to another person under article 5 (benefit of the Order) –

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Gas Transmission and the transferee or grantee (as applicable); and
- (b) written notice of the transfer or grant must be given to National Gas Transmission on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Gas Transmission (but without prejudice to sub-paragraph 11(3)b).

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Gas Transmission to enable National Gas Transmission to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Gas Transmission for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas Transmission for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2(1) of this Order (unless otherwise specified) and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, groundwork operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Gas Transmission (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Gas Transmission's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Gas Transmission: construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Gas Transmission” for the purposes of this Part of this Schedule means National Gas Transmission plc (Company Number 02006000) whose registered office is at National Grid House, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Network Code” means the network code prepared by National Gas Transmission pursuant to Standard Special Condition A11(3) of its Gas Transporter's Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of National Gas Transmission's Gas Transporters Licence, as both documents are amended from time to time;

“Network Code Claims” means any claim made against National Gas Transmission by any person or loss suffered by National Gas Transmission under the Network Code arising out of or in connection with any failure by National Gas Transmission to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised development or any costs or expenses incurred by National Gas Transmission as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which may arise as a result of the authorised development;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“protective works” means works or procedures which shall include but will not be limited to compliance with T/SP/SSW/22 (“Specification for safe working in the vicinity of National Gas Transmission's, High pressure Gas pipelines and associated installation requirements for third parties”), HSE's “HS(-G)47 Avoiding Danger from underground services” and any other relevant guidance documents as may be issued or updated from time to time and any works including but not limited to the installation of protective measures;

“specified works” means any of the works or activities undertaken in association with the authorised development which:

- (a) will or could be situated on, over, under, or within 15 metres measured in any direction of any apparatus or involve embankment works within 15 metres of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise;
- (b) could in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise;
- (c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Gas Transmission's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Gas Transmission, High pressure Gas pipelines and associated installation requirements for third parties”); and

“undertaker” means the undertaker as defined in article 2(1) of this Order.

On Street Apparatus

3. Except for paragraphs 4 (*apparatus of National Gas Transmission in stopped up streets*), 9 (*retained apparatus: protection*), 10 (*expenses*) and 11 (*indemnity*) of this Schedule which apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Gas Transmission, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas Transmission are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Gas Transmission in stopped up streets

4.—(1) Where any street is stopped up under the Order, if National Gas Transmission has any apparatus in the street or accessed via that street National Gas Transmission has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Gas Transmission, or procure the granting to National Gas Transmission of, legal easements reasonably satisfactory to National Gas Transmission in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Gas Transmission to require the removal of that apparatus under paragraph 7 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 9.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 10 (*temporary stopping up of streets*), National Gas Transmission is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 15 (*protective work to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Gas Transmission.

Acquisition of land

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker must not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of National Gas Transmission otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such timeframe as otherwise agreed between National Gas Transmission and the undertaker) that is subject to the requirements of this Part of this Schedule that cause any conflict with or breach the terms of any easement or other legal or land interest of National Gas Transmission or affect the provisions of any enactment or agreement regulating the relations between National Gas Transmission and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Gas Transmission reasonably requires enter into such deeds of consent upon such terms and conditions as are agreed between National Gas Transmission and the undertaker acting reasonably and which must be no less favourable on the whole to National Gas Transmission unless otherwise agreed by National Gas Transmission, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) Save where otherwise agreed in writing between National Gas Transmission and the undertaker, the undertaker and National Gas Transmission agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to

the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Gas Transmission or other enactments relied upon by National Gas Transmission as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule shall prevail.

(4) Any agreement or consent granted by National Gas Transmission under paragraph 9 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Gas Transmission to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Gas Transmission in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Gas Transmission advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Gas Transmission reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Gas Transmission to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Gas Transmission may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Gas Transmission to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Gas Transmission and the undertaker.

(5) National Gas Transmission must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas Transmission of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Gas Transmission facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as agreed between the undertaker and National Gas Transmission and must be no less favourable on

the whole to National Gas Transmission than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas Transmission.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Gas Transmission than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter can be referred to arbitration in accordance with paragraph 15 (*Arbitration*) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Gas Transmission as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Gas Transmission a plan and, if reasonably required by National Gas Transmission, a ground monitoring scheme in respect of those works.

(2) In relation to specified works, the plan to be submitted to National Gas Transmission under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until National Gas Transmission has given written approval of the plan so submitted.

(4) Any approval of National Gas Transmission required under sub-paragraph (2)—

- (a) can be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (4) or (6); and,
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) or (2) apply, National Gas Transmission Gas can require such modifications to be made to the plans as reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (4), as approved or as amended from time to time by agreement between the undertaker and National Gas Transmission and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (4) or (6) by National Gas Transmission for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Gas Transmission will be entitled to watch and inspect the execution of those works.

(7) Where National Gas Transmission requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Gas Transmissions' satisfaction prior to the commencement of any specified works for which protective works are required and National Gas Transmission must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Gas Transmission in accordance with sub-paragraphs (4) or (6) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(10) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Gas Transmission notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances and comply with sub paragraph (10) at all times;

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with National Gas Transmission's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Gas Transmission, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW/22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that National Gas Transmission retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10.

Expenses

10.—(1) Save where otherwise agreed in writing between National Gas Transmission and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas Transmission within 30 days of receipt of an itemised invoice or claim from National Gas Transmission all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Gas Transmission in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which are required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Gas Transmission in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas Transmission as a consequence of National Gas Transmission;
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas Transmission;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as is the case, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 15 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as is the case, the amount which apart from this sub-paragraph would be payable to National Gas Transmission by virtue of sub-paragraph (1) must be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs must be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Gas Transmission in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Gas Transmission any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of National Gas Transmission, or there is any interruption in any service provided, or in the supply of any goods, by National Gas Transmission, or National Gas Transmission becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Gas Transmission the cost reasonably and properly incurred by National Gas Transmission in making good such damage or restoring the supply; and
- (b) indemnify National Gas Transmission for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas Transmission, by reason or in consequence of any such damage or interruption or

National Gas Transmission becoming liable to any third party and including Network Code Claims other than arising from any default of National Gas Transmission.

(2) The fact that any act or thing may have been done by National Gas Transmission on behalf of the undertaker or in accordance with a plan approved by National Gas Transmission or in accordance with any requirement of National Gas Transmission or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Gas Transmission fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Gas Transmission, its officers, servants, contractors or agents;
- (b) any authorised development or any other works authorised by this Part of this Schedule carried out by National Gas Transmission as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 5 (*benefit of Order*) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised development yet to be executed and not falling within this sub-section 3(b) are to be subject to the full terms of this Part of this Schedule including this paragraph 11; or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Gas Transmission must give the undertaker reasonable notice of any such third-party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Gas Transmission must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Gas Transmission must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Gas Transmission’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Gas Transmission’s control and if reasonably requested to do so by the undertaker National Gas Transmission must provide an explanation of how the claim has been minimised, where relevant.

Enactments and agreements

12. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Gas Transmission and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Gas Transmission in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or National Gas Transmission requires the removal of apparatus under paragraph 7(2) or National Gas Transmission makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and

efficient operation of National Gas Transmission's undertaking and National Gas Transmission Gas must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Gas Transmission's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

14. If in consequence of the agreement reached in accordance with paragraph 6(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as required to enable National Gas Transmission to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under paragraph 7(2), 7(4) and 8(1) any difference or dispute arising between the undertaker and National Gas Transmission under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas Transmission, be determined by arbitration in accordance with article 43 (*arbitration*).

Notices

16. Notwithstanding article 42 (service of notices), any plans submitted to National Gas Transmission by the undertaker pursuant to paragraph 9 must be submitted to <https://lsbud.co.uk/> or such other address as National Gas Transmission may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 7

For the protection of National Grid Electricity Transmission Plc

Application

1.—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid .

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid , where the benefit of this Order is transferred or granted to another person under article 5 (*benefit of the Order*) –

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as applicable); and
- (b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but without prejudice to sub-paragraph 11(3)b).

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2(1) of this Order (unless otherwise specified) and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, groundwork operations or the receipt and erection of construction plant and equipment;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, require the undertaker to submit for National Grid's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“Incentive Deduction” means any incentive deduction National Grid Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised development;

“maintain” and “maintenance” include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid : construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid ” means National Grid Electricity Transmission Plc (Company Number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

“NGESO” means as defined in the STC;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“protective works” means works procedures which shall include but will not be limited to compliance with EN4-8 (“Development near overhead lines”) and HSE’s guidance note 6 “Avoidance of Danger from Overhead Lines” and any other relevant guidance documents as may be issued or updated from time to time and any works including but not limited to the installation of protective measures;

“specified works” means any of the works or activities undertaken in association with the authorised development which:

- (a) will or could be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise;
- (b) could in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; or
- (c) includes any of the activities that are referred to in development near overhead lines EN4-8 and HSE’s guidance note 6 “Avoidance of Danger from Overhead Lines”;

“STC” means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGENSO as modified from time to time;

“STC Claims” means any claim made under the STC against National Grid Electricity Transmission plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector’s equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission plc’s transmission system which arises as a result of the authorised development;

“Transmission Owner” means as defined in the STC; and

“undertaker” means the undertaker as defined in article 2(1) of this Order.

On Street Apparatus

3. Except for paragraphs 4 (*apparatus of National Grid in stopped up streets*), 9 (*retained apparatus: protection*), 10 (*expenses*) and 11 (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid in stopped up streets

4.—(1) Where any street is stopped up under the Order, if National Grid has any apparatus in the street or accessed via that street National Grid has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid, or procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph 7 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 9.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 10 (*temporary stopping up of streets*), National Grid is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 15 (*protective work to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid.

Acquisition of land

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker must not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish,

interfere with or override any easement, other interest or right or apparatus of National Grid otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such timeframe as otherwise agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as are agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule shall prevail.

(4) Any agreement or consent granted by National Grid under paragraph 9 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 15 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) In relation to works which are to be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes;
- (g) an assessment of risks of rise of earth issues; and
- (h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing; -

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraph (4)—

- (a) can be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid can require such modifications to be made to the plans as reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid 's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

10.—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which are required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;
- (b) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3); or
- (c) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (d) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (e) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (f) the approval of plans;
- (g) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 15 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid.

(2) The fact that any act or thing has been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;
- (b) any authorised development or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 5 (*benefit of Order*) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised development yet to be executed and not falling within this sub-section 3(b) are to be subject to the full terms of this Part of this Schedule including this paragraph 11; or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Grid must give the undertaker reasonable notice of any such third-party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

Enactments and agreements

12. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or National Grid requires the removal of apparatus under paragraph 7(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

14. If in consequence of the agreement reached in accordance with paragraph 6(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as required to enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under paragraph 7(2), 7(4) and 8(1) any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 43 (*arbitration*).

Notices

16. Notwithstanding article 42 (*service of notices*), any plans submitted to National Grid by the undertaker pursuant to paragraph 9 must be submitted to <https://lsbud.co.uk/> or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 8

For the protection of Cadent Gas Limited as Gas Undertaker

Application

1. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections (including transformed rectifiers and any associated groundbeds or cables), cables or other apparatus belonging to or maintained by Cadent for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of Cadent for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“Cadent” means Cadent Gas Limited or its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986.

“commence” has the same meaning as in article 2 of this Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms “commence” and “commencement” include operations for the purposes of archaeological or ecological investigations and investigations of the existing condition of the ground or of structures within 15 metres in any direction of Cadent's apparatus;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for Cadent's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary, proper and sufficient to describe and assess the works to be executed;

“rights” will include rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which:

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise; or
- (c) include any of the activities that are referred to in CD/SP/SSW/22 (Cadent’s policies for safe working in the vicinity of Cadent’s Assets”); and

“undertaker” means the undertaker as defined in article 2 of this Order.

On Street Apparatus

3.—(1) Except for paragraphs 4 (*apparatus in stopped up streets*), 7 (*Removal of Apparatus*) in so far as sub-paragraph 3(2) applies, 8 (*Facilities and Rights for Alternative Apparatus*) in so far as sub-paragraph 3(2) below applies, 9 (*retained apparatus: protection*), 10 (*expenses*) and 11 (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraph 7 and 8 of this Part will apply to diversions even where carried out under the 1991 Act, in circumstances where any Apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding article 9 or any other powers in the Order generally, section 85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

Apparatus of Cadent in stopped up streets

4.—(1) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 10 (*temporary stopping up of streets*), Cadent will be at liberty at all times to take all necessary access across any such stopped up highway or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary stopping up or diversion in respect of any apparatus which at the time of the stopping up or diversion was in that highway

Protective works to buildings

5.—(1) The undertaker, in the case of the powers conferred by article 15 (*protective work to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must

bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will—

- (a) pay compensation to Cadent for any loss sustained by it; and
- (b) indemnify Cadent against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof will be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph 6(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent or other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by Cadent under paragraph 9 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph 6(1).

(5) As a condition of an agreement between the parties in sub-paragraph 6(1) that involves de-commissioned apparatus being left in situ, the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 7 do not apply, the undertaker must:

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired

land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

7.—(1) If, in the exercise of the agreement reached in accordance with paragraph 6 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the satisfaction of Cadent and in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account sub-paragraph 8(1) below) the necessary facilities and rights:

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph 8(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 15 (*arbitration*) of this Part of this Schedule and the arbitrator will make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs 1 and (2) apply until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) or (2) apply, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 7(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised

works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with—

- (a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent's policies for safe working in proximity to gas apparatus "CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets" and HSE's "HS(-G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker will implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10.

Expenses

10.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all charges, costs and expenses reasonably anticipated or incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;
 - (i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 7(3) if it elects to do so; or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 9(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 43 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and
- (b) any authorised works or any other works authorised by this Part of this Schedule carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 5 (*benefit of order*) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11.

(4) Cadent must give the undertaker reasonable notice of any such third-party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations. Enactments and agreements.

Enactments and agreements

12. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or Cadent requires the removal of apparatus under sub-paragraph 7(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker will use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent’s undertaking and Cadent will use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent’s consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

14. If in consequence of the agreement reached in accordance with sub-paragraph 6(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under sub-paragraphs 7(2), 7(4), 8(1), 11(5) and paragraph 9 any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by be referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institute of Civil Engineers and in settling any difference or dispute, the arbitrator must have regard to the requirements of Cadent for ensuring the safety, economic and efficient operation of Cadent's apparatus.

Notices

16. The plans submitted to Cadent by the undertaker pursuant to sub-paragraph 9(1) must be sent to Cadent Gas Limited Plant Protection by e-mail to plantprotection@cadentgas.com copied by e-mail to landservices@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker.

PART 9

For the protection of Anglian Water Services Limited

Application

1. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

“Anglian Water” means Anglian Water Services Limited;

“apparatus” means:

- (a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under the Water Industry Act 1991;
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,
- (d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and
- (e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

and for the purpose of this definition, where words are defined by section 219 of that Act, they shall be taken to have the same meaning

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land; and

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed.

Apparatus in stopped up streets

3. Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 10 (*temporary stopping up of streets*), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable

to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

4. The undertaker, in the case of the powers conferred by article 15 (*protective work to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until

- (a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and
- (b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 7.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (*arbitration*).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 43, and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian

Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water’s reasonable requests for a reasonable period of time to enable Anglian Water to:

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Anglian Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 43 (*arbitration*).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.

Retained apparatus

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

- (4) Any approval of Anglian Water must:
 - (a) not be unreasonably withheld or delayed;
 - (b) in the case of a refusal must be accompanied by a statement of grounds for refusal;

- (c) is deemed to have been approved if it is neither given or refused within 28 days of the submission of the relevant information.

(5) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) of paragraph 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(7) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(8) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

- (a) 4 metres where the diameter of the pipe is less than 250 millimetres;
- (b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and
- (c) a distance to be agreed on a case-by-case basis and before the submission of the plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 43 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 4 or 6(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by Anglian Water;

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

11. Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

12. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 6(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 8(3), the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

13. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

14. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

15. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

16. For the avoidance of doubt whenever Anglian Water's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

17. Any difference or dispute arising between the undertaker and Anglian Water under this Part must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 43 (*arbitration*).

PART 10

For the protection of Orsted Hornsea Project Three (UK) Ltd

1. The provisions of this Part apply for the protection of Orsted unless otherwise agreed in writing between the undertaker and Orsted.

2. In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Orsted or its successor in title within the Hornsea Three Order limits;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“Hornsea Three authorised project” means the authorised project as defined in the Hornsea Three Order;

“Hornsea Three Order” means the Hornsea Three Offshore Wind Farm Order 2020 (as amended);

“Hornsea Three Order land” means Order land as defined in the Hornsea Three Order;

“Hornsea Three Order limits” means Order limits as defined in the Hornsea Three Order;

“Orsted” means an undertaker with the benefit of all or part of the Hornsea Three Order for the time being;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed specified works within and/or occupation of the Hornsea Three Order limits;

“proposed Hornsea Three Cable Corridor” means the proposed location for any part of the Hornsea Three authorised project permitted by the Hornsea Three Order within the Hornsea Three Order limits;

“protective works” means works undertaken or procedures followed by the undertaker which shall include but will not be limited to compliance with relevant guidance documents and any other relevant guidance documents and works including but not limited to the installation of circuits and protective mats;

“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission or marine licence intended to operate in conjunction with this Order) (including operations consisting of site clearance, demolition, early planting of landscaping works, archaeological investigations, environmental surveys, ecological mitigation, investigations for the purpose of assessing ground conditions and pre-construction monitoring remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure, the erection of welfare facilities, creation of site accesses and the temporary display of site notices or advertisements) as is—

- (a) in, on, under, over or within 25 metres of any part of the proposed Hornsea Three Cable Corridor or any apparatus located landward of the MHWS;

(b) in, on, under, over or within 100 metres of any part of the proposed Hornsea Three Cable Corridor or any apparatus located seaward of the MHWS; or

(c) may in any way adversely affect any apparatus; and

“temporary works” so much of the specified works which are temporary works as including those set out in part 1 and part 2 of Schedule 1 within the Order.

3. The consent of Orsted under this Part is not required where the Hornsea Three Order has expired without the authorised development having been commenced pursuant to paragraph 1 of Part 3 of Schedule 1 to the Hornsea Three Order.

4. Where conditions are included in any consent granted by Orsted pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Orsted.

5. The undertaker must not under the powers of this Order—

(a) acquire, extinguish, suspend, override or interfere with any rights that Orsted has in respect of any apparatus or the proposed Hornsea Three Cable Corridor; or

(b) acquire the Hornsea Three Order land or acquire any new rights or impose restrictive covenants or exercise any powers of temporary use or powers to enter and survey and investigate land over or in relation to the Hornsea Three Order land;

(c) without the consent of Orsted, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

6.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Orsted a plan.

(2) The plan to be submitted to Orsted under sub-paragraph (1) must include a method statement which describes—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant, design details etc. including but not limited to details of separation layers and details of post-installed protection;

(d) the position of any part of the Hornsea Three authorised project;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any of the Hornsea Three authorised project;

(f) protective works;

(g) any landscaping and/or ecological management plan;

(h) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2)(a) to (g) apply until Orsted has given written approval of the plan so submitted.

(4) Any approval of Orsted required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (8); and

(b) must not be unreasonably withheld.

(5) In relation to a work to which sub-paragraphs (1) and/or (2)(a) to (g) apply, Orsted may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing the Hornsea Three authorised project against interference or risk of damage or delay to construction or for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any of the Hornsea Three authorised project including but not limited to scheduling of offshore vessel movements within the proposed Hornsea Three Cable Corridor.

(6) Works to which this paragraph applies must only be executed:

(a) in accordance with the plan submitted under sub-paragraphs (1) and ((2)(a) to (g) and as relevant modified by sub-paragraph (5) or as amended from time to time by agreement between the undertaker and Orsted;

(b) in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (8) by Orsted for the alteration or otherwise for the protection of the Hornsea Three authorised project, or for securing access to it; and

(7) Orsted will be entitled to watch and inspect the execution of those works.

(8) Any protective works approved pursuant to this paragraph must be carried out to Orsted's satisfaction prior to the commencement of any specified works for which protective works are required and Orsted must give notice of its requirement for such protective works in accordance with sub-paragraph (10) (except in an emergency).

(9) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Orsted notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances.

(11) On receipt of a plan to which sub-paragraphs (1) and (2) apply Orsted must within 42 days serve written notice on the undertaker confirming that—

(a) the plan is approved; or

(b) the plan is approved subject to reasonable amendments as required by Orsted; or

(c) the plan is not approved and the reason for the non-approval.

(12) In the event that Orsted fails to serve written notice in accordance with paragraph (10) within 42 days of receipt of the plan to which sub-paragraphs (1) and (2) Orsted shall be deemed to have served a notice pursuant to sub-paragraph 10(i).

7.—(1) The undertaker must give to Orsted not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give Orsted written notice of the completion.

(2) The undertaker is not required to comply with paragraph 6 or sub-paragraph (1) in a case of emergency, but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonable practicable subsequently and must comply with paragraph 6 in so far as is reasonably practicable in the circumstances.

8. The undertaker must at all reasonable times during construction of the specified works allow Orsted and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works including but not limited to access for vessels offshore.

9.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Orsted requiring the undertaker to do so, remove the temporary works.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Orsted may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

10. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Orsted to maintain or use the apparatus no less effectively than was possible before the obstruction.

11. The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Orsted to the proposed Hornsea Three Cable Corridor and must not exercise the

powers under articles 8 (street works), 10 (temporary stopping up of streets), 11 (temporary stopping up of public rights of way) or 12 (access to works) of this Order over or in respect of the Hornsea Three Cable Corridor otherwise than with the prior written consent of Hornsea Three.

12. To ensure its compliance with this part, the undertaker must before carrying out any specified works pursuant to this Order request up-to-date written confirmation from Orsted of the location of any apparatus or the proposed Hornsea Three Cable Corridor.

13. The undertaker and Orsted must each act in good faith and use reasonable endeavours to co-operate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

14. The undertaker must pay to Orsted the reasonable expenses incurred by Orsted in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed Hornsea Three Cable Corridor.

15.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Orsted, or Orsted becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Orsted in making good such damage or restoring the service or supply; and
- (b) indemnify Orsted for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Orsted, by reason or in consequence of any such damage or interruption or Orsted becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Orsted, its officers, servants, contractors or agents.

(3) Orsted must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Orsted must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 15 applies. If requested to do so by the undertaker, Orsted shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 15 for claims reasonably incurred by Orsted.

(5) The fact that any work or thing has been executed or done with the consent of Orsted and in accordance with any conditions or restrictions prescribed by Orsted or in accordance with any plans approved by Orsted or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

16. Any dispute arising between the undertaker and Orsted under this Part must unless otherwise agreed in writing between the undertaker and Orsted be determined by arbitration under article 43 (arbitration).

17. Insofar as the construction of the authorised project gives rise to the need to modify any plan or scheme secured by a requirement contained in Part 3 of Schedule 1 to the Hornsea Three Order, the undertaker will provide such assistance as is reasonably necessary to support Orsted in pursuing any such modification.

18. Insofar as the construction of the Hornsea Three authorised project gives rise to the need to modify any plan or scheme secured by a requirement contained in Part 1 of Schedule 2 to the Order, Orsted will provide such assistance as is reasonably necessary to support the undertaker in pursuing any such modification.

19. Each notice and all other information required to be sent to Orsted under the terms of this Part must be sent to Orsted at its registered office and marked for the attention of the Hornsea Three Project Manager.

PART 11

For the protection of Norfolk Vanguard

1. The provisions of this Part apply for the protection of Vanguard unless otherwise agreed in writing between the undertaker and Vanguard.

2. In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Vanguard or its successor in title within the Norfolk Vanguard Order land;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“crossing area” means the land within land parcels 16-013, 16-014, 16-015, 16-018, 16-019 and 16-020 shown on the land plans and described in the book of reference;

“Norfolk Vanguard Order” means the Norfolk Vanguard Offshore Wind Farm Order as granted by the Secretary of State on 1 July 2020;

“Norfolk Vanguard Order land” means Order land as defined in the Norfolk Vanguard Order;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Norfolk Vanguard Order land;

“proposed Norfolk Vanguard Cable Corridor” means the proposed location for any electrical circuit(s) and construction compound(s) permitted by the Norfolk Vanguard Order within the Norfolk Vanguard Order land;

“specified works” means within the crossing area so much of any works or operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) in, on, under, over or within 25 metres of the proposed Norfolk Vanguard Cable Corridor or any apparatus; or
- (b) may in any way adversely affect any apparatus;

“temporary works” so much of the specified works which are temporary works as set out within the Order; and

“Vanguard” means an undertaker with the benefit of all or part of the Norfolk Vanguard Order for the time being

3. The consent of Vanguard under this Part is not required where the Norfolk Vanguard Order has expired without the authorised development having been commenced pursuant to requirement 1 of Schedule 1 to the Norfolk Vanguard Order.

4. Where conditions are included in any consent granted by Vanguard pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Vanguard.

5. The undertaker must not under the powers of this Order—

- (a) acquire, extinguish, suspend, override or interfere with any rights that Vanguard has in respect of any apparatus or the proposed Norfolk Vanguard Cable Corridor;
- (b) acquire the Norfolk Vanguard Order land or acquire any new rights or impose restrictive covenants or exercise any powers of temporary use over or in relation to the Norfolk

Vanguard Order land without the consent of Vanguard, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

6.—(1) The undertaker must not under the powers of this Order carry out any specified works without the consent of Vanguard, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if Vanguard does not respond within 30 days then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to Vanguard and must submit such further particulars available to it that Vanguard may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Vanguard.

(4) Any approval of Vanguard required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus or the proposed Norfolk Vanguard Cable Corridor or for securing access to any apparatus or the proposed Norfolk Vanguard Cable Corridor.

(5) Without limiting sub-paragraph (1), it is not reasonable for Vanguard to withhold or delay any consent or approval under this Part in relation to specified works solely on the basis of thermal interaction where the plans of the specified works submitted under sub-paragraph (2) demonstrate that all reasonable steps have been taken to minimise thermal interaction between the specified works and any apparatus or the proposed Norfolk Vanguard Cable Corridor.

(6) Where Vanguard requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Vanguard's reasonable satisfaction.

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

7.—(1) The undertaker must give to Vanguard not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give Vanguard written notice of the completion.

(2) The undertaker is not required to comply with paragraph 6 or sub-paragraph (1) in a case of emergency, but in that case it must give to Vanguard notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonable practicable subsequently and must comply with paragraph 6 in so far as is reasonably practicable in the circumstances.

8. The undertaker must at all reasonable times during construction of the specified works allow Vanguard and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

9.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Vanguard requiring the undertaker to do so, remove the temporary works.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Vanguard may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

10. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Vanguard to maintain or use the apparatus no less effectively than was possible before the obstruction.

11. Subject to paragraph 10 the undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Vanguard to the proposed Norfolk Vanguard Cable Corridor.

12. To ensure its compliance with this Part, the undertaker must before carrying out any specified works or operations pursuant to this Order request up-to-date written confirmation from Vanguard of the location of any apparatus or the proposed Norfolk Vanguard Cable Corridor.

13. The undertaker and Vanguard must each act in good faith and use reasonable endeavours to co-operate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

14. The undertaker must pay to Vanguard the reasonable expenses incurred by Vanguard in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed Norfolk Vanguard Cable Corridor.

15.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Vanguard, or Vanguard becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Vanguard in making good such damage or restoring the service or supply; and
- (b) compensate Vanguard for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Vanguard, by reason or in consequence of any such damage or interruption or Vanguard becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Vanguard, its officers, servants, contractors or agents.

(3) Vanguard must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Vanguard must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 15 applies. If requested to do so by the undertaker, Vanguard shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 15 for claims reasonably incurred by Vanguard.

(5) The fact that any work or thing has been executed or done with the consent of Vanguard and in accordance with any conditions or restrictions prescribed by Vanguard or in accordance with any plans approved by Vanguard or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

16. Any dispute arising between the undertaker and Vanguard under this Part must be determined by arbitration under article 43 (arbitration).

PART 12

For the protection of Norfolk Boreas

1. The provisions of this Part apply for the protection of Boreas unless otherwise agreed in writing between the undertaker and Boreas.

2. In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Boreas or its successor in title within the Norfolk Boreas Order Land;

“Boreas” means an undertaker with the benefit of all or part of the Norfolk Boreas Order for the time being;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“crossing area” means the land within land parcels 16-013, 16-014, 16-015, 16-018, 16-019 and 16-020 shown on the land plans and described in the book of reference;

“Norfolk Boreas Order” means a development consent order granted by the Secretary of State following an application by Norfolk Boreas Limited for the Norfolk Boreas Offshore Wind Farm;

“Norfolk Boreas Order land” means Order land as defined in the Norfolk Boreas Order;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Norfolk Boreas Order land;

“proposed Norfolk Boreas Cable Corridor” means the proposed location for any electrical circuit(s) and construction compound(s) permitted by the Norfolk Boreas Order within the Norfolk Boreas Order land;

“specified works” means within the crossing area so much of any works or operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) in, on, under, over or within 25 metres of the proposed Norfolk Boreas Cable Corridor or any apparatus; or
- (b) may in any way adversely affect any apparatus; and

“temporary works” so much of the specified works which are temporary works as set out within the Order.

3. The consent of Boreas under this Part is not required where the Norfolk Boreas Order has expired without the authorised development having been commenced pursuant to any requirement of Schedule 1 to the Norfolk Boreas Order.

4. Where conditions are included in any consent granted by Boreas pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Boreas.

5. The undertaker must not under the powers of this Order—

- (a) acquire, extinguish, suspend, override or interfere with any rights that Boreas has in respect of any apparatus or the proposed Norfolk Boreas Cable Corridor;
- (b) acquire the Norfolk Boreas Order land or acquire any new rights or impose restrictive covenants or exercise any powers of temporary use over or in relation to the Norfolk Boreas Order land without the consent of Boreas, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

6.—(1) The undertaker must not under the powers of this Order carry out any specified works without the consent of Boreas, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if Boreas does not respond within 30 days then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to Boreas and must submit such further particulars available to it that Boreas may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Boreas.

(4) Any approval of Boreas required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus or the proposed Norfolk Boreas Cable Corridor or for securing access to any apparatus or the proposed Norfolk Boreas Cable Corridor.

(5) Without limiting sub-paragraph (1), it is not reasonable for Boreas to withhold or delay any consent or approval under this Part in relation to specified works solely on the basis of thermal interaction where the plans of the specified works submitted under sub-paragraph (2) demonstrate that all reasonable steps have been taken to minimise thermal interaction between the specified works and any apparatus or the proposed Norfolk Boreas Cable Corridor.

(6) Where Boreas requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Boreas's reasonable satisfaction.

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

7.—(1) The undertaker must give to Boreas not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give Boreas written notice of the completion.

(2) The undertaker is not required to comply with paragraph 6 or sub-paragraph (1) in a case of emergency, but in that case it must give to Boreas notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonable practicable subsequently and must comply with paragraph 6 in so far as is reasonably practicable in the circumstances.

8. The undertaker must at all reasonable times during construction of the specified works allow Boreas and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

9.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Boreas requiring the undertaker to do so, remove the temporary works.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Boreas may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

10. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Boreas to maintain or use the apparatus no less effectively than was possible before the obstruction.

11. Subject to paragraph 10, the undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Boreas to the proposed Norfolk Boreas Cable Corridor.

12. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order request up-to-date written confirmation from Boreas of the location of any apparatus or the proposed Norfolk Boreas Cable Corridor.

13. The undertaker and Boreas must each act in good faith and use reasonable endeavours to cooperate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

14. The undertaker must pay to Boreas the reasonable expenses incurred by Boreas in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed Norfolk Boreas Cable Corridor.

15.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Boreas, or Boreas becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Boreas in making good such damage or restoring the service or supply; and

- (b) compensate Boreas for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Boreas, by reason or in consequence of any such damage or interruption or Boreas becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Boreas, its officers, servants, contractors or agents.

(3) Boreas must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Boreas must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 15 applies. If requested to do so by the undertaker, Boreas shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 15 for claims reasonably incurred by Boreas.

(5) The fact that any work or thing has been executed or done with the consent of Boreas and in accordance with any conditions or restrictions prescribed by Boreas or in accordance with any plans approved by Boreas or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

16. Any dispute arising between the undertaker and Boreas under this Part must be determined by arbitration under article 43 (arbitration).

PART 13

FOR THE PROTECTION OF EASTERN POWER NETWORKS PLC

Application

1. For the protection of the persons referred to in this part of this Schedule the following provisions will, unless otherwise agreed in writing between the undertaker and the person concerned, have effect.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of the protected person to enable the protected person in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means in respect of the various protected persons means electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by that protected person;

“commence” has the same meaning as in article 2 but for the purposes of this Schedule 14 any works whatsoever which are near to or may affect apparatus of the protected person will be included within this definition and for the avoidance of doubt this includes works for the diversion or laying of services;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of the protected person including construct, use, repair, alter, inspect, renew or remove the apparatus

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“protected person” means any licence holder within the meaning of Part 1 of the Electricity Act 1989.

3. Except for paragraph 4 (apparatus in stopped up streets), and 9 (retained apparatus: protection), this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the protected person are regulated by the provisions of Part 3 of the 1991 Act (as if this Order did not apply).

Apparatus of Protected Persons in stopped up streets

4. Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 10 (*temporary stopping up of streets*), or otherwise under this Order, a protected person will be at liberty at all times to take all necessary access across any such stopped up highway or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway subject always to the undertaking of works by the undertaker authorised by this Order.

Protective works to buildings

5.—(1) The undertaker, in the case of the powers conferred by this Order will so exercise those powers as not to obstruct or render less convenient the access to any apparatus without the written consent of the protected person and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of any protected person or any interruption in the supply of electricity, gas or water, as the case may be, by the protected person is caused, the undertaker will bear and pay on demand the cost reasonably incurred by that protected person in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will—

- (a) make compensation to the undertaker for any loss sustained by it; and
- (b) reimburse the protected person against all reasonably made claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by that protected person, by reason of any such damage or interruption.

(2) Nothing in this paragraph will impose any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of a protected person or its contractors or workmen; and the protected person will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof will be made without first consulting the undertaker and giving it an opportunity to make representations as to the claim or demand.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker will not acquire any apparatus or override any easement or other interest of a protected person or acquire any land or other interest of a protected person or create any new rights over the same otherwise than by agreement of the protected person such agreement not to be unreasonably withheld or delayed.

Removal of apparatus

7.—(1) If, in the exercise of agreement reached in accordance with paragraph 6 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus will not be removed under this part of this Schedule and any right of a protected person to maintain that apparatus in that land will not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the protected person in question in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it will give to the protected person in question 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a protected person reasonably needs to remove any of its apparatus) the undertaker will, subject to sub-paragraph (3), afford to the protected person to their satisfaction (taking into account sub-paragraph 8(1) below) the necessary facilities and rights for:-

- (a) the construction of alternative apparatus in other land of the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the protective person in question will, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for the protected person to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of the undertaker under this part of this Schedule will be constructed in such manner and in such line or situation as may be agreed between the protected person in question and the undertaker both acting reasonably.

(5) The protected person in question will, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the protected person of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this part of this Schedule, the undertaker affords to a protected person facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights will be granted upon such terms and conditions as may be agreed between the undertaker and the protected person in question and will be no less favourable on the whole to the protected person in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by the protected person.

(2) If the facilities and rights to be afforded by the undertaker and agreed with the protected person under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the protected person in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration and, the arbitrator will make such provision for the payment of compensation by the undertaker to that protected person as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: Protection

9.—(1) Not less than 56 days before commencing the execution of any works authorised by this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise, the undertaker will submit to the protected person in question a plan.

(2) In relation to any works which will or may be situated on, over, under or within 15 metres measured in any direction of any apparatus, or involve embankment works within 15 metres of any apparatus, the plan to be submitted to the protected person under sub-paragraph (1) will be detailed including a material statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus.
- (f) proposed mitigation required.

(3) The undertaker will not commence the construction or renewal of any works to which sub-paragraph (2) applies until the protected person has given written approval of the plan so submitted.

(4) The protected person may require as a condition of their consent the undertaker to enter into an asset protection agreement in a form which is reasonably required by the protected person to ensure that the undertaker provides enough mitigation for the works.

(5) Any approval of the protected person required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7);
- (b) will not be unreasonably withheld or delayed;
- (c) will be deemed to be granted 14 days after the expiry of the 56 day period if no response to the request for approval has been provided within that initial 56 day period.

(6) In relation to a work to which sub-paragraph (2) applies, the protected person may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under this Order will be executed only in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (4), as amended from time to time by agreement between the undertaker and the protected person and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by the protected person for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the protected person will be entitled to watch and inspect the execution of those works.

(8) Where any protected person requires any protective works to be carried out either by the protected person itself or by the undertaker (whether of a temporary or permanent nature) such protective works will be carried out to the protected person's reasonable satisfaction prior to the carrying out of any works authorised by the Order (or any relevant part thereof) and the protected person in question will give 56 days' notice of such works from the date of approval of a plan submitted in line with sub-paragraphs (1) or (4) (except in an emergency).

(9) If a protected person in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 will apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 7(2).

(10) Nothing in this paragraph will preclude the undertaker from submitting at any time or from time to time, but in no case will the execution of any works commence until 56 days have lapsed following submission of any new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan; and

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it will give to the protected person in question notice as soon as is reasonably practicable and a plan of those works and will comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances.

Expenses

10.—(1) Subject to the following provisions of this paragraph, the undertaker will repay to a protected person on demand all charges, costs and expenses reasonably incurred by that protected person in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that the protected person elects to use compulsory purchase powers to acquire any necessary rights under sub-paragraph 7(3) all costs incurred as a result of such action;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or in default of agreement settled by arbitration in accordance with article 43 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the protected person in question by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a protected person in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the protected person any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3) of this paragraph 11, if by reason or in consequence of the execution of any works in, on, under or over any land purchased, held, appropriated or used under this Order, any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a protected person, or there is any interruption in any service provided, or in the supply of any goods, by any protected person, the undertaker must bear and pay the cost reasonably incurred by that protected person in making good such damage or restoring the supply, and must

- (a) make reasonable compensation to that protected person for any other expenses, loss, damages, penalty or costs incurred by the protected person; and
- (b) indemnify the protected person against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the protected person,

by reason or in consequence of any such damage or interruption; and the fact that any act or thing may have been done by the protected person on behalf the undertaker or in accordance with plans approved by the protected person or in accordance with any requirement of the protected person or under its supervision does not, subject to sub-paragraph (2), excuse the undertaker from any liability under the provisions of this paragraph.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a protected person, its officers, servants, contractors or agents.

(3) A protected person must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker, which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Enactments and agreements

12. Nothing in this part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and a protected person in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13. Where in consequence of the proposed construction of any of the authorised development, the undertaker or a protected person requires the removal of apparatus under sub-paragraph 7(2) or a protected person makes requirements for the protection or alteration of apparatus under sub-paragraph (9), the undertaker will use its best endeavours to co-ordinate the execution of the works in the interests of safety and the need to ensure the safe and efficient operation of the protected person's undertaking taking into account the undertaker's desire for the efficient and economic execution of the authorised development and the undertaker and each relevant protected person will co-operate with each other for those purposes.

Access

14. If in consequence of an agreement reached in accordance with sub-paragraph 6(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker will provide such alternative means of access to such apparatus as will enable the protected person to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under sub-paragraphs 7(2), 7(4), 8(1) and 9 any difference or dispute arising between the undertaker and a protected person under this Part of this Schedule will, unless otherwise agreed in writing between the undertaker and that protected person, be determined by arbitration in accordance with article 43 (*arbitration*).

PART 14

For the protection of National Highways Limited

Application etc.

1.—(1) The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

(2) Except where expressly amended by the Order the operation of the powers and duties of National Highways or the Secretary of State under the 1980 Act, the 1984 Act, the 1991 Act, the Transport Act 2000, or Town and Country Planning (General Permitted Development) (England) Order 2015 which shall continue to apply in respect of the exercise of all National Highways' statutory functions.

Interpretation

2.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2) the latter prevail.

(2) In this Part of this Schedule—

“as built information” means one electronic copy of the following information as applicable:—

- (a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;
- (b) product data sheets and technical specifications for all materials used;
- (c) as constructed information for any utilities discovered or moved during the works;
- (d) method statements for the works carried out;
- (e) organisation and methods manuals for all products used;
- (f) as constructed programme;
- (g) test results and records as required by the detailed design information and during construction phase of the project;
- (h) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways; and
- (i) the health and safety file;

“A47 Order” means the A47 North Tuddenham to Easton Development Consent Order 2022;

“A47 Tuddenham Order land” means the Order land as defined in the A47 Order;

“condition survey” means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the specified;

“detailed design information” means such of the following drawings specifications and calculations as are relevant to the specified works:—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways;
- (e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (f) landscaping;
- (g) proposed departures from DMRB standards;
- (h) walking, cycling and horse-riding assessment and review report;
- (i) stage 1 and stage 2 road safety audits and exceptions agreed;
- (j) topographical survey;
- (k) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;
- (l) health and safety information including any asbestos survey required by GG105 or any successor document; and
- (m) other such information that may be reasonably required by National Highways to be used to inform the detailed design of the specified works;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

“programme of works” means a document setting out the sequence and timetabling of the specified works;

“road safety audit” means an audit carried out in accordance with the road safety audit standard;

“road safety audit standard” means DMRB Standard HD GG119 or any replacement or modification of it;

“road space booking” means road space bookings in accordance with National Highways’ Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

“specified works” means so much of any work, including highway works, authorised by this Order including any maintenance of that work, as is undertaken—

- (a) on, in, under or over the strategic road network for which National Highways is the highway authority; or
- (b) on, in, under or over the A47 Tuddenham Order land; and

“Specification for Highways Works” means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway for which National Highways is the highway authority.

General

3.—(1) References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

(2) No works in carrying out, maintaining or diverting the authorised development may be carried out under the strategic road network at a distance within 4 metres of the lowest point of any services and/or drainage under the highway.

Prior approvals

4.—(1) The specified works must not commence until:—

- (a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;
- (b) the programme of works has been approved by National Highways;
- (c) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
 - (i) the detailed design information, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a);
 - (ii) details of the proposed road space bookings;
 - (iii) the identity and qualifications of the contractor and nominated persons;
 - (iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker; and
 - (v) information demonstrating that the walking, cycling and horse-riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding;
- (d) a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;
- (e) stakeholder liaison has taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under sub-paragraph (c)(iv) above; and
- (f) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways considers will be affected by the specified works, has been agreed in writing by National Highways.

(2) Except where an approval has otherwise been provided under this Part, the undertaker must not exercise:—

- (a) article 4 (maintenance of authorised development);
- (b) article 8 (street works);

- (c) article 10 (temporary stopping up of streets);
- (d) article 11 (temporary stopping up of public rights of way);
- (e) article 14 (discharge of water);
- (f) article 15 (protective works to buildings);
- (g) article 16 (authority to survey and investigate land);
- (h) article 18 (compulsory acquisition of land);
- (i) article 20 (compulsory acquisition of rights);
- (j) article 25 (rights under or over streets);
- (k) article 26 (temporary use of land for carrying out the authorised project);
- (l) article 27 (temporary use of land for maintaining the authorised project); or
- (m) article 34 (felling or lopping trees or removal of hedgerows) of this Order,

over any part of the strategic road network or any land owned, controlled or temporarily acquired by National Highways under the A47 Order without the consent of National Highways, such consent not to be unreasonably withheld or delayed, and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and submit a scheme of traffic management as required for National Highways' approval.

(3) National Highways must prior to the commencement of the specified works or the exercise of any power referenced in sub-paragraph (2) inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraphs (1) or (2).

(4) National Highways must within 56 days of the undertaker requesting National Highways' approval pursuant to sub-paragraphs (1) and (2):—

- (a) intimate their approval;
- (b) intimate their refusal together with reasons for refusal; or
- (c) request more time to intimate approval or refusal pursuant to sub-paragraphs (a) or (b).

(5) In the event National Highways requests more time pursuant to sub-paragraph (4)(c), the undertaker may:—

- (a) approve that request; or
- (b) require that the person identified to the undertaker pursuant to sub-paragraph (3) meets with the undertaker's project director to discuss the request for approval.

(6) Any approval of National Highways required under this paragraph 4:—

- (a) must be given in writing; and
- (b) may be subject to any conditions as National Highways considers reasonably necessary.

(7) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways within 7 days along with details of their qualifications.

(8) Any change to the detailed design of the specified works must be approved by National Highways in accordance with sub-paragraph 4(4) of this Part.

Construction of the specified works

5.—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start unless otherwise agreed by National Highways.

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out the specified works and no specified works for which a road space booking is required shall commence without a road space booking having first been secured from National Highways not to be unreasonably withheld or delayed.

(3) The specified works must be carried out by the undertaker to the reasonable satisfaction of National Highways in accordance with:—

- (a) the relevant detailed design information and programme of works approved pursuant to sub-paragraph 4(1) above or as subsequently varied by agreement between the undertaker and National Highways;
- (b) where relevant, the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highways Works, together with all other relevant standards as required by National Highways to include, inter alia; all relevant interim advice notes, save to the extent that any departures or exceptions from those standards apply which have been approved by National Highways; and
- (c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken to the reasonable satisfaction of National Highways.

(4) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(5) If any part of the specified works is constructed:—

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the highway, highway structure or asset,

National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply as soon as reasonably practicable with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the reasonable satisfaction of National Highways.

(6) If during the carrying out of the specified works the undertaker or its appointed contractors or agents causes damage to the strategic road network or to any land owned, controlled or temporarily acquired by National Highways pursuant to the A47 Order, then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(7) If within 28 days on which a notice under sub-paragraphs (6) or (7) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure reasonably incurred by National Highways in so doing, such sum to be payable within 30 days of demand.

(8) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the specified works without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(9) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme pursuant to sub-paragraph 4(1)(b) of this Part or suspends the carrying out of any specified work beyond a reasonable period of time and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

Payments

6.—(1) The undertaker must pay to National Highways a sum equal to the whole of any costs and expenses which National Highways reasonably incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works, including:—

- (a) the checking and approval of the information required under this Part;
- (b) the supervision of the specified works;

- (c) all legal and administrative costs and disbursements incurred by National Highways in connection with the specified works and sub-paragraphs (a) and (b); and
 - (d) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs;
- together comprising “the NH costs”.

(2) National Highways must within 14 days of receipt of the information pursuant to sub-paragraph 4(1) provide the undertaker with a schedule showing its estimate of the NH costs.

(3) The undertaker must within 30 days of receipt of the notice pursuant to sub-paragraph (2) pay to National Highways the estimate of the NH costs.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs notified pursuant to sub-paragraph (2) it may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate (the “excess”).

(5) The undertaker must within 30 days of receipt of the notification pursuant to sub-paragraph (4) pay to National Highways an amount equal to the excess.

(6) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above as a fully itemised invoice within 30 days of the undertaker notifying to National Highways that a specified work has been completed.

(7) Within 30 days of the issue of the final account:

- (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it; and
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(8) The undertaker must pay to National Highways within 30 days of receipt and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the specified works.

Completion of a specified work

7.—(1) The undertaker must within 28 days of completion of a specified work arrange for the highways structures and assets that were the subject of the condition survey to be re-surveyed including a renewed geotechnical assessment required by DMRB CD622 and must submit the re-survey to National Highways for its approval.

(2) If the re-surveys carried out pursuant to sub-paragraph 7(1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways for its approval in writing, which must not be unreasonably withheld or delayed, and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(4) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to sub-paragraph 7(1) give notice in writing that National Highways will remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(5) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

(6) The undertaker must within 28 days of completion of any HDD works submit to National Highways the as built information in relation to those works.

Indemnity

8. The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 30 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways or its officers servants agents or contractors or any person or body for which it is responsible.

Maintenance of the specified works

9.—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured.

(3) The undertaker must comply with any reasonable requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days in advance of the planned commencement date of the maintenance works.

Land

10.—(1) The undertaker must not under the powers of this Order:

- (a) acquire or use land forming part of;
- (b) acquire new or existing rights over; or
- (c) seek to impose or extinguish any restrictive covenants over;

any of the strategic road network, or extinguish any existing rights of National Highways in respect of any third-party property, except with the consent of National Highways such not to be unreasonably withheld or delayed by written request to legalservicsteam@nationalhighways.co.uk.

Expert Determination

11.—(1) Subject to the provisions of this paragraph, article 43 (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date that an expert is appointed.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 7 days of the expert's appointment;

- (b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;
- (c) issue a decision within 7 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 43 (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

Co-operation

12.—(1) Where in consequence of the proposed construction of any part of the authorised development, National Highways makes requirements for the protection of the SRN under paragraph 4, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety of the authorised development and taking into account the need to ensure the safety National Highways’ undertaking and National Highways must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Highways’ consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

PART 15

For the protection of Perenco North Sea Limited

Application

1. For the protection of Licensee the following provisions have effect, unless otherwise agreed in writing between the undertaker and Licensee.

Interpretation

2. In this Part of this Schedule—

“facilities proximity area” means an obstacle-free area comprising a cylinder with a horizontal radius of one point two six nautical miles (1.26nm) extending from the centre of the existing Waveney platform located within the Licence and extending vertically from mean sea level;

“Licence” means United Kingdom Petroleum Production Licence P.456 Block 48/17c;

“Licensee” means the licensee from time to time of the Licence, who at the date hereof is Perenco;

“line of sight” the line of sight communications link from the existing Waveney platform located within the Licence to/from any other installation and/or to/from any onshore control room together with any associated infrastructure, equipment, software, systems, circuits, channels and licenses;

“Perenco” means Perenco North Sea Limited (company number SC293676) registered at C/O Dwf Llp, 2 Sempole Street, Edinburgh, Scotland, EH3 8BL;

“pipeline” means the 8-inch (8”) diameter gas pipeline with pipeline reference number PL-2555 connecting the Durango well to the Waveney platform located within the Licence, together with any associated umbilicals, plant and equipment serving that pipeline;

“pipeline proximity area” means the area five hundred (500) meters either side and directly above the pipeline; and

“specified works” means any works comprised within the authorised development, including temporary surface infrastructure, which are:

- (a) within the pipeline proximity area;
- (b) relate to any part of the authorised development; and
- (c) which would or may in any way adversely affect the pipeline or Licensee’s access to the pipeline,

but excluding works for the construction of wind turbine generators or offshore substation platforms.

Works affecting the facilities

3.—(1) The undertaker must not construct, or carry out any works to install any wind turbine generators or offshore substation platforms within the pipeline proximity area or within the facilities proximity area or to adversely affect the line of sight.

(2) No specified works are to be commenced until the undertaker and the Licensee have entered into a pipeline proximity agreement substantially in the form published by Offshore Energies UK (October 2015 edition).

Cooperation

4. The undertaker and the Licensee must each act in good faith and use reasonable endeavours to cooperate with, and provide assistance to, each other as may be required to give effect to the provisions of this Schedule.

SCHEDULE 15

Article 43

Arbitration Rules

Primary objective

1.—(1) The primary objective of these arbitration rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within four months from the date the Arbitrator is appointed pursuant to article 43 (*arbitration*) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within 20 business days of the dispute arising, or such longer period as agreed in writing by the Parties, shall be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration is deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

Time periods

2.—(1) All time periods in these Arbitration Rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the Arbitrator is appointed which is either:

- (a) the date the Arbitrator notifies the parties in writing of the Arbitrator’s acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the Arbitration is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the Arbitrator being appointed, the Claimant must provide both the Respondent and the Arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant's contentions as to those issues, the amount of its claim and/or the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the Claimant's statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent must provide the Claimant and the Arbitrator with—

- (a) a written Statement of Defence responding to the Claimant's Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant's claim, its acceptance of any element(s) of the Claimant's claim, its contentions as to those elements of the Claimant's claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the Claimant's statements, comments on the Claimant's expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 7 days of the Respondent serving its statements under sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The parties' pleadings, witness statements and expert reports (if any) must be concise. No single pleading is to exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The Arbitrator must make an award on the substantive difference(s) based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within 7 days of receiving the last submission, the Arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within 10 days of the Arbitrator advising the parties that he is to hold a hearing, the date and venue for the hearing must be fixed by agreement with the parties, save that if there is no agreement the Arbitrator must direct a date and venue which he considers is fair and reasonable in

all the circumstances. The date for the hearing must not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(7) There is no process of examination and cross-examination of experts, but the Arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) is:

- (a) at least 28 days before a hearing, the Arbitrator must provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they are to jointly confer and produce a joint report or reports within 14 days of the issues being provided; and
- (c) the form and content of a joint report must be as directed by the Arbitrator and must be provided at least 7 days before the hearing.

(8) Within 14 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator must take these submissions into account in the Award.

(9) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(11) The Arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given are proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The Arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these Rules.

(2) There must be no discovery or disclosure, except that the Arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders are to be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

- (a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice; and then
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator must notify the parties that the award is completed, signed and dated, and that it is to be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

(a) 1996 c. 23.

Costs

6.—(1) The costs of the Arbitration must include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Where the difference involves connected/interrelated issues, the Arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties must bear them or in what proportion they are to be borne by the parties.

(4) The Arbitrator must award recoverable costs on the general principle that costs follow the event, having regard to all material circumstances, including such matters as exaggerated claims and/or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

Confidentiality

7.—(1) Subject to sub-paragraphs (2), (3) and (4), any arbitration hearing and documentation shall be open to and accessible by the public.

(2) Where the Arbitration relates to a dispute or difference under the provisions of Schedule 17, the hearings must take place in private unless otherwise agreed between the parties and any matters, materials, documents, awards, expert reports and the like are confidential and must not be disclosed to any third party without prior written consent of the other party.

(3) The Arbitrator may direct that the whole or part of a hearing is to be private and/or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(4) Nothing in this paragraph shall prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

SCHEDULE 16

Article 34

Hedgerows

PART 1

Removal of Hedgerows

<i>(1) Area</i>	<i>(2) Reference of hedgerow</i>
District of South Norfolk	The hedgerow marked H0010 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0014 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0022 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0025 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0027 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0028 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0033 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0040 on the tree preservation order and hedgerow plan

	hedgerow plan
District of North Norfolk	The hedgerow marked H0213b on the tree preservation order and hedgerow plan
District of North Norfolk	The hedgerow marked H0215 on the tree preservation order and hedgerow plan
District of North Norfolk	The hedgerow marked H0217 on the tree preservation order and hedgerow plan
District of North Norfolk	The hedgerow marked H0218 on the tree preservation order and hedgerow plan
District of North Norfolk	The hedgerow marked H0231 on the tree preservation order and hedgerow plan
District of North Norfolk	The hedgerow marked H0234 on the tree preservation order and hedgerow plan

PART 2

Removal of potentially important hedgerows

<i>(1) Area</i>	<i>(2) Reference of hedgerow</i>
District of North Norfolk	The hedgerow marked HR023 on the tree preservation order and hedgerow plan
District of North Norfolk	The hedgerow marked HR024 on the tree preservation order and hedgerow plan
District of Broadland	The hedgerow marked H0030 on the tree preservation order and hedgerow plan
District of Broadland	The hedgerow marked HR036 on the tree preservation order and hedgerow plan
District of Broadland	The hedgerow marked HR0128a on the tree preservation order and hedgerow plan
District of Broadland	The hedgerow marked HR0128b on the tree preservation order and hedgerow plan

PART 3

Removal of important hedgerows

<i>(1) Area</i>	<i>(2) Reference of hedgerow</i>
District of South Norfolk	The hedgerow marked H0001 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0002 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0004 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0005 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0011 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0012 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0013 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0015 on the tree preservation order and hedgerow plan
District of South Norfolk	The hedgerow marked H0016 on the tree preservation order and hedgerow plan

SCHEDULE 17

Article 46

Compensation Measures

PART 1

North Norfolk Coast Special Protection Area / Greater Wash Special Protection Area: Delivery of measures to compensate for sandwich tern loss

1. In this Part—

“Defra” means the Department for Environment, Food and Rural Affairs;

“the GW” means the site designated as the Greater Wash Special Protection Area;

“the NNC” means the site designated as the North Norfolk Coast Special Protection Area;

“Sandwich Tern Compensation Plan” means the relevant principles for Sandwich tern compensation set out in the document certified as the habitats regulations derogation provision of evidence, annex 2A - outline sandwich tern compensation implementation and monitoring plan for the purposes of this Order under article 38 (*certification of plans and documents, etc.*);

“Sandwich Tern CIMP” means the Sandwich tern compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult Sandwich tern from the NNC and GW as a result of the authorised development;

“the Strategic Compensation Fund” means any fund established by Defra or a Government body for the purpose of implementing strategic compensation measures; and

“STCSG” means the Sandwich Tern Compensation Steering Group;

2. The offshore works may not be commenced until a plan for the work of the STCSG has been submitted to and approved by the Secretary of State. Such plan must include:

- (a) terms of reference for the STCSG;
- (b) details of the membership of the STCSG;
- (c) details of the schedule of meetings, timetable for preparation of the Sandwich Tern CIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.

3. Following consultation with the STCSG the Sandwich Tern CIMP must be submitted to the Secretary of State for approval, in consultation with the local planning authority, the MMO, Marine Scotland (where relevant) and the relevant statutory nature conservation body.

4. The Sandwich Tern CIMP must be based on the strategy for Sandwich tern compensation set out in the Sandwich Tern Compensation Plan and include:

(1) For the nesting habitat improvements and restoration of lost breeding range measures:

- (a) details of where compensation measures will be delivered and the suitability of the site to deliver the measures;
- (b) details of landowner agreements and sea bed access agreements, if relevant, demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the Sandwich Tern CIMP;
- (c) details of the design of nesting habitat improvements and restoration of lost breeding range measures including how risks from avian or mammalian predation and unauthorised human access will be mitigated;

- (d) an implementation timetable for the delivery of the nesting habitat improvements and restoration of lost breeding range measures that ensures all compensation measures are in place prior to the operation of any turbine forming part of the authorised development;
 - (e) details of the maintenance schedule for the measures;
 - (f) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the factors used to trigger alternative compensation measures and/or adaptive management measures;
 - (g) provision for reporting to the Secretary of State, to include details of the use of the nesting habitat improvements by breeding Sandwich tern to identify barriers to success and target any adaptive management measures;
 - (h) minutes from all consultations with the STCSG;
 - (i) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Strategic Compensation Fund wholly or partly in substitution for the nesting habitat improvements and restoration of lost breeding range compensation measure or as an adaptive management measure for the purposes of paragraphs 4(1)(f) and (g) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and Defra or other Government body responsible for the operation of the Strategic Compensation Fund in consultation with the STCSG;
 - (j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the nesting habitat improvements and restoration of lost breeding range compensation measure or as an adaptive management measure for the purposes of paragraphs 4(1)(f) and (g) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and the other party in consultation with the STCSG. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph; and
 - (k) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for the nesting habitat improvements and restoration of lost breeding range compensation measure or as an adaptive management measure for the purposes of paragraphs 4(1)(f) and (g) of this Part of this Schedule. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph.
- (2) For the measures to improve breeding success at SPA sites other than the NNC:
- (a) details of where compensation measures will be delivered and the suitability of the site to deliver the measures;
 - (b) details of landowner agreements, if relevant, demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the Sandwich Tern CIMP;
 - (c) details of the design of the measures including how risks from avian or mammalian predation and unauthorised human access will be mitigated;
 - (d) an implementation timetable for the delivery of the measures that ensures all compensation measures are in place prior to the operation of any turbine forming part of the authorised development;
 - (e) details of the maintenance schedule for the compensation measures;
 - (f) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the

- factors used to trigger alternative compensation measures and/or adaptive management measures;
- (g) provision for reporting to the Secretary of State, to include details of the use of the measures by breeding Sandwich tern to identify barriers to success and target any adaptive management measures;
 - (h) minutes from all consultations with the STCSG;
 - (i) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Strategic Compensation Fund wholly or partly in substitution for the measures to improve breeding success at SPA sites other than the NNC or as an adaptive management measure for the purposes of paragraphs 4(2)(f) and (g) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and Defra or other Government body responsible for the operation of the Strategic Compensation Fund in consultation with the STCSG;
 - (j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the measures to improve breeding success at SPA sites other than the NNC or as an adaptive management measure for the purposes of paragraphs 4(2)(f) and (g) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and the party delivering the measures, in consultation with the STCSG. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph; and
 - (k) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for the measures to improve breeding success at SPA sites other than the NNC or as an adaptive management measure for the purposes of paragraphs 4(2)(f) and (g) of this Part of this Schedule. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph
- (3) For the predator management measure at the NNC:
- (a) details of the scale and location where the compensation measures will be delivered;
 - (b) details of landowner agreements, if relevant, demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the Sandwich Tern CIMP;
 - (c) details of the design of the measures;
 - (d) an implementation timetable for the delivery of the measures that ensures the compensation measures are in place prior to the operation of any turbine forming part of the authorised development;
 - (e) details of the maintenance schedule for the compensation measures;
 - (f) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the factors used to trigger alternative compensation measures and/or adaptive management measures;
 - (g) provision for reporting to the Secretary of State, to include details of the use of the measures by breeding Sandwich tern to identify barriers to success and target any adaptive management measures;
 - (h) minutes from all consultations with the STCSG;
 - (i) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Strategic Compensation Fund wholly or partly in substitution for the predator management measure at the NNC or as an adaptive management measure for the purposes of paragraphs 4(3)(f) and (g) of this

Part of this Schedule. The sum of the contribution to be agreed between the undertaker and Defra or other Government body responsible for the operation of the Strategic Compensation Fund in consultation with the STCSG;

- (j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the predator management measure at the NNC or as an adaptive management measure for the purposes of paragraphs 4(3)(f) and (g) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and the party delivering the measures, in consultation with the STCSG. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph; and
- (k) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for the predator management measure at the NNC or as an adaptive management measure for the purposes of paragraphs 4(3)(f) and (g) of this Part of this Schedule. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph.

5. Notwithstanding the requirement of paragraphs 6, 7, 8 and 9 of this Part of this Schedule the undertaker shall not be required to undertake the nesting habitat improvements and the restoration of lost breeding range measures, the measures to improve breeding success at SPA sites other than the NNC, or the predator management measures to the extent that:

- (a) a contribution to the Strategic Compensation Fund has been elected in substitution for the nesting habitat improvements and restoration of lost breeding range measures for the purposes of paragraph 4(1)(i) of this Part of this Schedule, or in substitution for the measures to improve breeding success at SPA sites other than the NNC for the purposes of paragraph 4(2)(i) of this Part of this Schedule, or in substitution for the predator management measures for the purposes of paragraph 4(3)(i) of this Part of this Schedule;
- (b) a financial contribution towards the establishment of compensation measures by another party has been elected in substitution for the nesting habitat improvements and restoration of lost breeding range for the purposes of paragraph 4(1)(j) of this Part of this Schedule, or in substitution for the measures to improve breeding success at SPA sites other than the NNC for the purposes of paragraph 4(2)(j) of this Part of this Schedule, or in substitution for the predator management measures for the purposes of paragraph 4(3)(j) of this Part of this Schedule; or
- (c) the undertaker has elected to collaborate with another party in the delivery of compensation measures in substitution for the nesting habitat improvements and restoration of lost breeding range measures for the purposes of paragraph 4(1)(k) of this Part of this Schedule, or in substitution for the measures to improve breeding success at SPA sites other than the NNC for the purposes of paragraph 4(2)(k) of this Part of this Schedule, or in substitution for the predator management measures for the purposes of paragraph 4(3)(k) of this Part of this Schedule.

6. The undertaker must implement the measures set out in the Sandwich Tern CIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant planning authority. In particular, no operation of any turbine forming part of the authorised development may begin until the measures set out in the Sandwich Tern CIMP have been implemented.

7. The undertaker shall notify the Secretary of State of completion of implementation of the measures set out in the Sandwich Tern CIMP.

8. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective and, in such case, proposals to address this. Any proposals

to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

9. The compensation measures implemented in accordance with the Sandwich Tern CIMP must not be decommissioned without written approval of the Secretary of State in consultation with the relevant statutory nature conservation body.

10. The Sandwich Tern CIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Sandwich Tern CIMP must be in accordance with the principles set out in the Sandwich Tern Compensation Plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the Sandwich Tern Compensation Plan.

PART 2

Flamborough and Filey Coast Special Protection Area: Delivery of measures to compensate for kittiwake loss

11. In this Part—

“Defra” means the Department for Environment, Food and Rural Affairs;

“the FFC” means the site designated as the Flamborough and Filey Coast Special Protection Area;

“Kittiwake CIMP” means the kittiwake compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult kittiwakes from the FFC as a result of the authorised development;

“Kittiwake Compensation Plan” means the relevant principles for kittiwake compensation set out in the document certified as the annex 3A - outline kittiwake compensation implementation and monitoring plan for the purposes of this Order under article 38 (*certification of plans and documents, etc.*);

“KCSG” means the Kittiwake Compensation Steering Group;

“Strategic Compensation Fund” means any fund established by Defra or a Government body for the purpose of implementing strategic compensation measures;

12. The offshore works may not be commenced until a plan for the work of the KCSG has been submitted to and approved by the Secretary of State. Such plan must include:

- (a) terms of reference for the KCSG;
- (b) details of the membership of the KCSG;
- (c) details of the schedule of meetings, timetable for preparation of the Kittiwake CIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.

13. Following consultation with the KCSG the Kittiwake CIMP must be submitted to the Secretary of State for approval, in consultation with the local planning authority or authorities for the land containing the artificial nest site improvements, and the relevant statutory nature conservation body.

14. The Kittiwake CIMP must be based on the strategy for kittiwake compensation set out in the Kittiwake Compensation Plan and include:

- (a) details of where artificial nest site improvements compensation measures will be delivered and the suitability of the site to deliver the measures;

- (b) details of landowner agreements, if relevant, demonstrating how rights will be obtained to install the measures at the site(s) and assurances that the land management will deliver the ecology objectives of the Kittiwake CIMP;
- (c) details of the design of the artificial nest site improvements, including how risks from avian or mammalian predation and unauthorised human access will be mitigated;
- (d) an implementation timetable for the delivery of artificial nest site improvements that ensures all compensation measures are in place to allow three full kittiwake breeding seasons prior to the operation of any turbine forming part of the authorised development;
- (e) details of the maintenance schedule for the artificial nest site improvements;
- (f) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the factors used to trigger alternative compensation measures and/or adaptive management measures;
- (g) provision for reporting to the Secretary of State, to include details of the use of the nest sites by breeding kittiwake to identify barriers to success and target any adaptive management measures;
- (h) minutes from all consultations with the KCSG;
- (i) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of state, to pay a contribution to the Strategic Compensation Fund wholly or partly in substitution for the artificial nest site improvements compensation measure or as an adaptive management measure for the purposes of paragraphs 14(f) and (g) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and Defra or other Government body responsible for the operation of the Strategic Compensation Fund in consultation with the KCSG;
- (j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the artificial nest site improvements compensation measure or as an adaptive management measure for the purposes of paragraphs 14(f) and (g) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and the other party in consultation with the KCSG. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph; and
- (k) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for the artificial nest site improvements compensation measure or as an adaptive management measure for the purposes of paragraphs 14(f) and (g) of this Part of this Schedule. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph.

15. Notwithstanding the requirements of paragraphs 16, 17, 18 and 19 of this Part of this Schedule the undertaker shall not be required to undertake the artificial nest site improvements compensation measure to the extent that:

- (a) a contribution to the Strategic Compensation Fund has been elected in substitution for the artificial nest site improvements compensation measure for the purposes of paragraph 14(i) of this Part of this Schedule;
- (b) a financial contribution towards the establishment of compensation measures by another party has been elected in substitution for the artificial nest site improvements compensation measure for the purposes of paragraph 14(j) of this Part of this Schedule; or
- (c) the undertaker has elected to collaborate with another party in the delivery of compensation measures in substitution for the artificial nest site improvements compensation measure for the purposes of paragraph 14(k) of this Part of this Schedule.

16. The undertaker must implement the measures set out in the Kittiwake CIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant planning authority. In particular, no operation of any turbine forming part of the authorised development may begin until three full breeding seasons following the implementation of the measures set out in the Kittiwake CIMP have elapsed. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 March in each year and ended on 31 August.

17. The undertaker shall notify the Secretary of State of completion of implementation of the artificial nest site improvements measures set out in the Kittiwake CIMP.

18. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

19. The artificial nest site improvements measures must not be decommissioned without written approval of the Secretary of State in consultation with relevant statutory nature conservation body.

20. The Kittiwake CIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Kittiwake CIMP must be in accordance with the principles set out in the Kittiwake Compensation Plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the Kittiwake Compensation Plan.

PART 3

Flamborough and Filey Coast Special Protection Area: Delivery of measures to compensate for guillemot loss

21. In this Part—

“Defra” means the Department for Environment, Food and Rural Affairs;

“the FFC” means the site designated as the Flamborough and Filey Coast Special protection Area;

“Guillemot CIMP” means the guillemot compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult guillemot from the FFC as a result of the authorised development;

“Guillemot Compensation Plan” means the relevant principles for guillemot compensation set out in the document certified as the Habitats Regulations Derogation Provision of Evidence, Annex 4A Outline Guillemot Compensation Implementation and Monitoring Plan for the purposes of this Order under article 38 (Certification of plans and documents, etc.);

“GCSG” means the Guillemot Compensation Steering Group; and

“the Strategic Compensation Fund” means any fund established by Defra or a Government body for the purpose of implementing strategic compensation measures;

22. The offshore works may not be commenced until a plan for the work of the GCSG has been submitted to and approved by the Secretary of State. Such plan must include:

(a) terms of reference for the GCSG;

(b) details of the membership of the GCSG;

(c) details of the schedule of meetings, timetable for preparation of the Guillemot CIMP and reporting and review periods; and

(d) the dispute resolution mechanism.

23. Following consultation with the GCSG the Guillemot CIMP must be submitted to the

Secretary of State for approval, in consultation with the relevant statutory nature conservation body.

24. The Guillemot CIMP must be based on the strategy for guillemot compensation set out in the Guillemot Compensation Plan and include:

- (a) details of relevant technology supply agreements and arrangements with fishers to use the bycatch reduction technology that will be or have been secured by the undertaker;
- (b) an implementation timetable for provision of the bycatch reduction measure(s), such timetable to ensure that contract(s) are entered into with fishers for the provision and use of bycatch reduction technology no later than one year prior to the operation of any turbine forming part of the authorised development;
- (c) details for the proposed ongoing monitoring of the measure including collection of data from participating fishers;
- (d) minutes from all consultations with the GCSG;
- (e) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the factors used to trigger alternative compensation measures and/or adaptive management measures;
- (f) provision for reporting to the Secretary of State, to identify barriers to success and target any adaptive management measures;
- (g) provision for the option to be exercised by undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Strategic Compensation Fund wholly or partly in substitution for the bycatch reduction measures or as an adaptive management measure for the purposes of paragraphs 24(2)(e) and (f) of this Part of this Schedule The sum of the contribution to be agreed between the undertaker and Defra or other Government body responsible for the operation of the Strategic Compensation Fund in consultation with GCSG;
- (h) provision for the option to be exercised, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the bycatch reduction measures or as an adaptive management measure for the purposes of paragraphs 24(2)(e) and (f) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and the other party in consultation with the GCSG. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph; and
- (i) provision for the option to be exercised, following consent in writing of the Secretary of State, to collaborate with another party in the delivery of bycatch reduction measures wholly or partly in substitution for the compensation measure or as an adaptive management measure for the purposes of paragraphs 24(2)(e) and (f) of this Part of this Schedule. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph.

25. Notwithstanding the requirements of paragraphs 26, 27 and 28 of this Part of this Schedule the undertaker shall not be required to undertake to the bycatch reduction compensation measure to the extent:

- (a) that a contribution to the Strategic Compensation Fund has been elected in substitution for the bycatch reduction compensation measure for the purposes of paragraphs 24(1)(i) or 24(2)(g) of this Part of this Schedule;
- (b) a financial contribution towards the establishment of compensation measures by another party has been elected in substitution for the bycatch reduction compensation measure for the purposes of paragraphs 24(1)(j) or 24(2)(h) of this Part of this Schedule; or
- (c) the undertaker has elected to collaborate with another party in the delivery of compensation measures in substitution for the bycatch reduction compensation measure for the purposes of paragraphs 24(1)(k) or 24(2)(i) of this Part of this Schedule.

26. The undertaker must carry out the measures set out in the Guillemot CIMP approved by the Secretary of State unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

27. The undertaker shall notify the Secretary of State of completion of the measures as set out in

the Guillemot CIMP.

28. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

29. The Guillemot CIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Guillemot CIMP must be in accordance with the principles set out in the Guillemot Compensation Plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the Guillemot Compensation Plan.

PART 4

Measures of equivalent environmental benefit

30. In this Part—

“Defra” means the Department for Environment, Food and Rural Affairs;

“the Cromer Shoal Chalk Beds MCZ” means the Marine Conservation Zone designated by the Secretary of State under the Cromer Shoal Chalk Beds Marine Conservation Zone Designation Order 2016;

“in-principle MEEB plan” means the document certified as the in-principle MEEB plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents etc);

“licenced activities” means the activities licenced by the deemed marine licence granted either under Schedule 12 or Schedule 13 of this Order;

“MEEB steering group” means the steering group who will shape and inform the scope and delivery of the MIMP;

“MIMP” means the MEEB implementation and monitoring plan to be submitted to and approved by the Secretary of State in accordance with paragraph 32 below; and

“the Strategic Compensation Fund” means any fund established by Defra or a Government body for the purpose of implementing strategic compensation measures;

“MEEB” means measures of equivalent environmental benefit, as that term is used in section 126(7)(c) of the 2009 Act;

31. The licenced activities may not be commenced until a plan for the work of the MEEB steering group has been submitted to and approved by the Secretary of State. Such plan must include:

(a) terms of reference for the MEEB steering group;

(b) details of the membership of the MEEB steering group;

(c) details of the schedule of meetings, timetable for preparation of the MIMP and reporting and review periods; and

(d) the dispute resolution mechanism.

32. Following consultation with the MEEB steering group the MIMP must be submitted to the Secretary of State for approval in consultation with the MMO and the relevant statutory nature conservation bodies. The MIMP must be based on the principles set out in the in-principle MEEB plan and include

(a) details of the location, nature and area of the measures to be delivered, which should equate to no less than 10,000m² of native oyster bed restoration to deliver equivalent environmental benefit as a result

- of the predicted effects of the authorised development
- (b) confirmation of any marine licence required in order to implement and maintain the measures;
 - (c) confirmation of any lease required (if any) from The Crown Estate for the site(s) where the measures are to be delivered;
 - (d) an implementation timetable for delivery of the oyster bed restoration;
 - (e) details of management and maintenance arrangements for the oyster bed restoration;
 - (f) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the factors used to trigger alternative measures and/or adaptive management measures
 - (g) (g) minutes from all consultations with the MEEB steering group;
 - (h) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Strategic Compensation Fund wholly or partly in substitution for the oyster bed restoration measures of equivalent environmental benefit. The sum of the contribution to be agreed between the undertaker and Defra or other Government body responsible for the operation of the Strategic Compensation Fund in consultation with the MEEB steering group;
 - (i) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of measures of equivalent environmental benefit by another party wholly or partly in substitution for the oyster bed restoration measures of equivalent environmental benefit or as an adaptive management measure for the purposes of paragraphs 32(f) of this Part of this Schedule. The sum of the contribution to be agreed between the undertaker and the other party in consultation with the MEEB steering group. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph; and
 - (j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to collaborate with another party in the delivery of measures of equivalent environmental benefit wholly or partly in substitution for the oyster bed restoration measures of equivalent environmental benefit or as an adaptive management measure for the purposes of paragraphs 32(f) of this Part of this Schedule. The Secretary of State shall consult with the relevant statutory nature conservation body prior to granting consent in terms of this paragraph.
33. No laying of any cables or cable protection works may be commenced within the Cromer Shoal Chalk Beds MCZ until the MIMP has been approved by the Secretary of State.
34. Notwithstanding the requirements of paragraphs 35, 37, 38 and 39 of this Part of this Schedule the undertaker shall not be required to undertake the oyster bed restoration measures of equivalent environmental benefit to the extent that:
- (a) a contribution to the Strategic Compensation Fund has been elected in substitution for the oyster bed restoration measures of equivalent environmental benefit for the purposes of paragraph 32(h) of this Part of this Schedule;
 - (b) a financial contribution towards the establishment of measures of equivalent environmental benefit by another party has been elected in substitution for the oyster bed restoration measures of equivalent environmental benefit for the purposes of paragraph 32(i) of this Part of this Schedule; or
 - (c) the undertaker has elected to collaborate with another party in the establishment of measures of equivalent environmental benefit by another party has been elected in substitution for the oyster bed restoration measures of equivalent environmental benefit for the purposes of paragraph 32(j) of this Part of this Schedule.
35. Subject to paragraph 15 of this Part, the undertaker must implement the measures set out in the MIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory conservation body and the MMO.
36. The undertaker is not required to implement the MIMP if no external cable protection works are required within the Cromer Shoal Chalk Beds MCZ.
37. The undertaker shall notify the Secretary of State of completion of implementation of the measures set out in the MIMP.
38. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. This must include

details of any finding that the measures have been ineffective and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

39. Once the measures have been implemented the undertaker shall provide an annual report to the Secretary of State on the progress of the measures as detailed in the MIMP.

40. 40. The MIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved MIMP must be in accordance with the principles set out in the in-principle MEEB plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the in-principle MEEB plan.

SCHEDULE 18

Article 38

Documents to be certified

The following documents in Table 1 are the list referred to in article 38—

Table 1

<i>Document Number</i>	<i>Examination Library Reference</i>	<i>Name</i>	<i>Version</i>	<i>Date</i>
2.3	TBC	Land Plans	E	July 2023
2.4	REP3-003	Crown Land Plan	D	May 2023
2.5	REP3-004	Special Category Land Plan	C	May 2023
2.6	AS-050	Works Plans (Onshore)	D	April 2023
2.7	TBC	Works Plans (Offshore)	D	July 2023
2.8	APP-013	Offshore Order Limits and Grid Coordinates Plan	A	September 2022
2.9	REP5-002	Access to Works Plan	E	June 2023
2.10	REP5-003	Streets (to be temporarily stopped up) Plan	D	June 2023
2.11	REP5-004	Public Rights of Way (to be temporarily stopped up) Plan	E	June 2023
2.12	AS-053	Tree Preservation Order and Hedgerow Plan	C	April 2023
4.1	TBC	Book of Reference	H	July 2023
5.5.2.1	TBC	Habitats Regulations Derogation Provision of Evidence, Annex 2A - Outline Sandwich Tern Compensation Implementation and Monitoring Plan	B	July 2023

5.5.3.1	APP-073	Habitats Regulations Derogation Provision of Evidence, Annex 3A - Outline Kittiwake Compensation Implementation and Monitoring Plan	A	September 2022
Environmental Statement				
6.1.1	APP-087	Environmental Statement Chapter 1 - Introduction	A	September 2022
6.1.2	APP-088	Environmental Statement Chapter 2 - Policy and Legislative Context	A	September 2022
6.1.3	APP-089	Environmental Statement Chapter 3 - Site Selection & Assessment of Alternatives	A	September 2022
6.1.4	REP5-021	Environmental Statement Chapter 4 - Project Description	C	June 2023
6.1.5	APP-091	Environmental Statement Chapter 5 - EIA Methodology	A	September 2022
6.1.6	APP-092	Environmental Statement Chapter 6 - Marine Geology, Oceanography and Physical Processes	A	September 2022
6.1.7	APP-093	Environmental Statement Chapter 7 - Marine Water and Sediment Quality	A	September 2022
6.1.8	APP-094	Environmental Statement Chapter 8 - Benthic Ecology	A	September 2022
6.1.9	APP-095	Environmental Statement Chapter 9 - Fish and Shellfish Ecology	A	September 2022
6.1.10	APP-096	Environmental Statement Chapter 10 - Marine Mammal Ecology	A	September 2022
6.1.11	APP-097	Environmental Statement Chapter 11 - Offshore Ornithology	A	September 2022
6.1.12	APP-098	Environmental Statement Chapter 12 - Commercial Fisheries	A	September 2022
6.1.13	APP-099	Environmental Statement Chapter 13 - Shipping Navigation	A	September 2022
6.1.14	APP-100	Environmental Statement Chapter 14 - Offshore Archaeology and Cultural Heritage	A	September 2022
6.1.15	APP-101	Environmental Statement Chapter 15 - Aviation and Radar	A	September 2022

6.1.16	APP-102	Environmental Statement Chapter 16 - Petroleum Industry and Other Marine Users	A	September 2022
6.1.17	APP-103	Environmental Statement Chapter 17 - Ground Conditions and Contamination	A	September 2022
6.1.18	APP-104	Environmental Statement Chapter 18 - Water Resources and Flood Risk	A	September 2022
6.1.19	REP2-022	Environmental Statement Chapter 19 - Land Use, Agriculture and Recreation	B	March 2023
6.1.20	REP3-026	Environmental Statement Chapter 20 - Onshore Ecology and Ornithology	C	May 2023
6.1.21	APP-107	Environmental Statement Chapter 21 - Onshore Archaeology and Cultural Heritage	A	September 2022
6.1.22	APP-108	Environmental Statement Chapter 22 - Air Quality	A	September 2022
6.1.23	APP-109	Environmental Statement Chapter 23 - Noise and Vibration	A	September 2022
6.1.24	APP-110	Environmental Statement Chapter 24 - Traffic and Transport	A	September 2022
6.1.25	APP-111	Environmental Statement Chapter 25 - Seascape and Visual Impact Assessment	A	September 2022
6.1.26	APP-112	Environmental Statement Chapter 26 - Landscape and Visual Impact Assessment	A	September 2022
6.1.27	APP-113	Environmental Statement Chapter 27 - Socio- Economics and Tourism	A	September 2022
6.1.28	APP-114	Environmental Statement Chapter 28 - Health	A	September 2022
6.1.29	APP-115	Environmental Statement Chapter 29 - Transboundary Impacts	A	September 2022
6.2.3	APP-106	Environmental Statement Chapter 3 Figures - Site Selection and Assessment of Alternatives	A	September 2022
6.2.4	REP3-028	Environmental Statement Chapter 4 Figures - Project Description	B	May 2023
6.2.5	APP-118	Environmental Statement Chapter 5 Figures - EIA Methodology	A	September 2022

6.2.6	APP-119	Environmental Statement Chapter 6 Figures - Marine Geology, Oceanography and Physical Processes	A	September 2022
6.2.7	APP-120	Environmental Statement Chapter 7 Figures - Marine Water and Sediment Quality	A	September 2022
6.2.8	APP-121	Environmental Statement Chapter 8 Figures - Benthic Ecology	A	September 2022
6.2.9	APP-122	Environmental Statement Chapter 9 Figures - Fish and Shellfish Ecology	A	September 2022
6.2.11	APP-123	Environmental Statement Chapter 11 Figures - Offshore Ornithology	A	September 2022
6.2.12	APP-124	Environmental Statement Chapter 12 Figures - Commercial Fisheries	A	September 2022
6.2.13	APP-125	Environmental Statement Chapter 13 Figures - Shipping Navigation	A	September 2022
6.2.14	APP-126	Environmental Statement Chapter 14 Figures - Offshore Archaeology and Cultural Heritage	A	September 2022
6.2.15	APP-127	Environmental Statement Chapter 15 Figures - Aviation and Radar	A	September 2022
6.2.16	APP-128	Environmental Statement Chapter 16 Figures - Petroleum Industry and other Marine Users	A	September 2022
6.2.18	APP-129	Environmental Statement Chapter 18 Figures - Water Resources and Flood Risk	A	September 2022
6.2.19	REP6-005	Environmental Statement Chapter 19 Figures - Land Use, Agriculture and Recreation	C	June 2023
6.2.20	APP-131	Environmental Statement Chapter 20 Figures - Onshore Ecology and Ornithology	A	September 2022
6.2.22	APP-132	Environmental Statement Chapter 22 Figures - Air Quality	A	September 2022
6.2.23	APP-133	Environmental Statement Chapter 23 Figures - Noise and Vibration	A	September 2022
6.2.24	APP-134	Environmental Statement Chapter 24 Figures - Traffic and Transport	A	September 2022

6.2.25	APP-135	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 1 of 18	A	September 2022
6.2.25	APP-136	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 2 of 18	A	September 2022
6.2.25	APP-137	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 3 of 18	A	September 2022
6.2.25	APP-138	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 4 of 18	A	September 2022
6.2.25	APP-139	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 5 of 18	A	September 2022
6.2.25	APP-140	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 6 of 18	A	September 2022
6.2.25	APP-141	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 7 of 18	A	September 2022
6.2.25	APP-142	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 8 of 18	A	September 2022
6.2.25	APP-143	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 9 of 18	A	September 2022
6.2.25	APP-144	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 10 of 18	A	September 2022
6.2.25	APP-145	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 11 of 18	A	September 2022

6.2.25	APP-146	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 12 of 18	A	September 2022
6.2.25	APP-147	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 13 of 18	A	September 2022
6.2.25	APP-148	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 14 of 18	A	September 2022
6.2.25	APP-149	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 15 of 18	A	September 2022
6.2.25	APP-150	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 16 of 18	A	September 2022
6.2.25	APP-151	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 17 of 18	A	September 2022
6.2.25	APP-152	Environmental Statement Chapter 25 Figures - Seascape and Visual Impact Assessment - Part 18 of 18	A	September 2022
6.2.26	APP-153	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 1 of 20	A	September 2022
6.2.26	APP-154	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 2 of 20	A	September 2022
6.2.26	APP-155	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 3 of 20	A	September 2022
6.2.26	APP-156	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 4 of 20	A	September 2022

6.2.26	APP-157	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 5 of 20	A	September 2022
6.2.26	APP-158	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 6 of 20	A	September 2022
6.2.26	APP-159	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 7 of 20	A	September 2022
6.2.26	APP-160	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 8 of 20	A	September 2022
6.2.26	APP-161	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 9 of 20	A	September 2022
6.2.26	APP-162	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 10 of 20	A	September 2022
6.2.26	APP-163	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 11 of 20	A	September 2022
6.2.26	APP-164	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 12 of 20	A	September 2022
6.2.26	APP-165	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 13 of 20	A	September 2022
6.2.26	APP-166	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 14 of 20	A	September 2022
6.2.26	APP-167	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 15 of 20	A	September 2022

6.2.26	APP-168	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 16 of 20	A	September 2022
6.2.26	APP-169	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 17 of 20	A	September 2022
6.2.26	APP-170	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 18 of 20	A	September 2022
6.2.26	APP-171	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 19 of 20	A	September 2022
6.2.26	APP-172	Environmental Statement Chapter 26 Figures - Landscape and Visual Impact Assessment - Part 20 of 20	A	September 2022
6.2.27	APP-173	Environmental Statement Chapter 27 Figures – Socio-Economics and Tourism	A	September 2022
6.2.28	APP-174	Environmental Statement Chapter 28 Figures - Health	A	September 2022
6.3.21.1.3	APP-230b	Environmental Statement - Figures	A	September 2022
6.3.21.2.2	APP-234	Environmental Statement Annex 21.2.2 - Figures to Appendix 21.2	A	September 2022
6.3.21.4.2	APP-238	Environmental Statement Annex 21.4.2 - Onshore Substation Setting Assessment Figures	A	September 2022
6.3.21.5.2	APP-241	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 1 of 12	A	September 2022
6.3.21.5.2	APP-242	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 2 of 12	A	September 2022
6.3.21.5.2	APP-243	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 3 of 12	A	September 2022

6.3.21.5.2	APP-244	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 4 of 12	A	September 2022
6.3.21.5.2	APP-245	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 5 of 12	A	September 2022
6.3.21.5.2	APP-246	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 6 of 12	A	September 2022
6.3.21.5.2	APP-247	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 7 of 12	A	September 2022
6.3.21.5.2	APP-248	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 8 of 12	A	September 2022
6.3.21.5.2	APP-249	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 9 of 12	A	September 2022
6.3.21.5.2	APP-250	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 10 of 12	A	September 2022
6.3.21.5.2	APP-251	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 11 of 12	A	September 2022
6.3.21.5.2	APP-252	Environmental Statement Annex 21.5.2 - Offshore Infrastructure Setting Assessment Figures - Part 12 of 12	A	September 2022
6.3.3.1	APP-175	Environmental Statement Appendix 3.1 - Onshore Substation Site Selection Report	A	September 2022
6.3.3.2	APP-176	Environmental Statement Appendix 3.2 - Cable Landfall Concept Study	A	September 2022
6.3.3.3	APP-177	Environmental Statement Appendix 3.3. - Onshore Main Construction Compound Site Selection Report	A	September 2022

6.3.4.1	TBC	Environmental Statement Appendix 4.1 - Crossing Schedule	E	July 2023
6.3.4.2	APP-179	Environmental Statement Appendix 4.2 - Greenhouse Gas Footprint Assessment	A	September 2022
6.3.6.1	APP-180	Environmental Statement Appendix 6.1 - Physical Processes Method Statement	A	September 2022
6.3.6.2	APP-181	Environmental Statement Appendix 6.2 - Wave Climate Assessment	A	September 2022
6.3.6.3	APP-182	Environmental Statement Appendix 6.3 - Sedimentary Processes in the Cromer Shoal Chalk Beds MCZ	A	September 2022
6.3.6.4	APP-183	Environmental Statement Appendix 6.4 - Sheringham Shoal Nearshore Cable Route - BGS Shallow Geological Assessment	A	September 2022
6.3.8.1	APP-184	Environmental Statement Appendix 8.1 - DEP Benthic Characterisation Report	A	September 2022
6.3.8.2	APP-185	Environmental Statement Appendix 8.2 - SEP Benthic Characterisation Report	A	September 2022
6.3.8.3	APP-186	Environmental Statement Appendix 8.3 - DEP Benthic Habitat Report	A	September 2022
6.3.8.4	APP-187	Environmental Statement Appendix 8.4 - SEP Benthic Habitat Report	A	September 2022
6.3.8.5	APP-188	Environmental Statement Appendix 8.5 - DEP and SEP Benthic Habitat Mapping	A	September 2022
6.3.8.6	APP-189	Environmental Statement Appendix 8.6 - MarESA Biotope Sensitivities	A	September 2022
6.3.9.1	APP-190	Environmental Statement Appendix 9.1 - Fish and Shellfish Ecology Technical Report	A	September 2022
6.3.10.1	APP-191	Environmental Statement Appendix 10.1 - Marine Mammal Consultation Responses, Information and Survey Data	A	September 2022

6.3.10.2	TBC	Environmental Statement Appendix 10.2 - Underwater Noise Modelling Report	C	July 2023
6.3.10.3	APP-193	Environmental Statement Appendix 10.3 - Marine Mammal Cumulative Impact Assessment (CIA) Screening	A	September 2022
6.3.10.4	APP-194	Environmental Statement Appendix 10.4 - Marine Mammal Unexploded Ordnance (UXO) Assessment	A	September 2022
6.3.11.1	APP-195	Environmental Statement Appendix 11.1 - Offshore Ornithology Technical Report	A	September 2022
6.3.11.2	APP-196	Environmental Statement Appendix 11.2 - Information to Inform the Offshore Ornithology Cumulative Impact Assessment	A	September 2022
6.3.12.1	APP-197	Environmental Statement Appendix 12.1 - Commercial Fisheries Technical Report	A	September 2022
6.3.13.1	APP-198	Environmental Statement Appendix 13.1 - Navigation Risk Assessment	A	September 2022
6.3.14.1	APP-199	Environmental Statement Appendix 14.1 - Archaeological Assessment of Geophysical Data	A	September 2022
6.3.14.2	APP-200	Environmental Statement Appendix 14.2 - Archaeological Assessment of Geophysical Data - Addendum	A	September 2022
6.3.14.3	APP-201	Environmental Statement Appendix 14.3 - Stage 1 Archaeological Assessment of Geophysical Data	A	September 2022
6.3.15.1	APP-202	Environmental Statement Appendix 15.1 - Technical Report including Radar Line of Sight Images	A	September 2022
6.3.15.2	APP-203	Environmental Statement Appendix 15.2 - Surveillance Minimum Altitude Chart Analysis	A	September 2022

6.3.16.1	APP-204	Environmental Statement Appendix 16.1 - Vessel Access Study	A	September 2022
6.3.16.2	APP-205	Environmental Statement Appendix 16.2 - Helicopter Access Study	A	September 2022
6.3.17.1	REP3-032	Environmental Statement Appendix 17.1 - Land Quality Desk Study and Preliminary Risk Assessment Report	B	May 2023
6.3.17.2	APP-207	Environmental Statement Appendix 17.2 - Waste Assessment (Onshore Development)	A	September 2022
6.3.18.1	REP3-034	Environmental Statement Appendix 18.1 - Water Framework Directive Compliance Assessment	B	May 2023
6.3.18.2	AS-023-AS-030	Environmental Statement Appendix 18.2 - Flood Risk Assessment	B	October 2022
6.3.18.2.1	REP3-036	Environmental Statement Appendix 18.2.1 - Annex 18.2.1 - Onshore Substation Drainage Study	C	May 2023
6.3.18.3	REP3-038	Environmental Statement Appendix 18.3 - Geomorphological Baseline Survey Technical Report	B	May 2023
6.3.19.1	REP5-023	Environmental Statement Appendix 19.1 - Public Right of Way and Cycle Route Crossings	B	June 2023
6.3.20.1	REP3-040	Environmental Statement Appendix 20.1 - Extended Phase 1 Habitat Survey Report	B	May 2023
6.3.20.2	REP3-042	Environmental Statement Appendix 20.2 - Great Crested Newt Survey Report	B	May 2023
6.3.20.3	APP-216	Environmental Statement Appendix 20.3 - Bat Activity Survey Report	A	September 2022
6.3.20.4	REP3-044	Environmental Statement Appendix 20.4 - Wintering Birds Survey Report	B	May 2023
6.3.20.5	REP3-046	Environmental Statement Appendix 20.5 - Breeding Birds Survey Report	B	May 2023

6.3.20.6	REP3-048	Environmental Statement Appendix 20.6 - Initial Biodiversity Net Gain Assessment	B	May 2023
6.3.20.7	REP3-050	Environmental Statement Appendix 20.7 - Onshore Ecology Desk Study	B	May 2023
6.3.20.8	APP-221	Environmental Statement Appendix 20.8 - Reptile Survey Report	A	September 2022
6.3.20.9	REP3-052	Environmental Statement Appendix 20.9 - White Clawed Crayfish Survey Report	B	May 2023
6.3.20.10	APP-223	Environmental Statement Appendix 20.10 - Bat (Roosting) Survey Report	A	September 2022
6.3.20.11	APP-224	Environmental Statement Appendix 20.11 - Invertebrate Survey Report	A	September 2022
6.3.20.12	APP-225	Environmental Statement Appendix 20.12 - National Vegetation Classification (NVC) Survey Report	A	September 2022
6.3.20.13	REP3-054	Environmental Statement Appendix 20.13 - Riparian Mammals (Water Vole and Otter) Survey Report	B	May 2023
6.3.20.14	APP-227	Environmental Statement Appendix 20.14 - Badger Confidential Appendix	A	September 2022
6.3.20.15	APP-228	Environmental Statement Appendix 20.15 - Arboricultural Survey Report	A	September 2022
6.3.21.1	APP-229	Environmental Statement Appendix 21.1 - Onshore Archaeological Desk- Based (Baseline) Assessment	A	September 2022
6.3.21.1.1	APP-230	Environmental Statement Appendix 21.1.1 - Designated Heritage Assets	A	September 2022
6.3.21.1.2	APP-230a	Environmental Statement - Non-designated Heritage Assets	A	September 2022
6.3.21.1.4	APP-231	Environmental Statement Appendix 21.1.4 - Heritage Site Walkover Survey	A	September 2022
6.3.21.2	APP-232	Environmental Statement	A	September 2022

		Appendix 21.2 - Aerial Photographic, LiDAR Data and Historic Map Regression Analysis		
6.3.21.2.1	APP-233	Environmental Statement Appendix 21.2 - Annex 21.2.1 - Metadata to Appendix 21.2	A	September 2022
6.3.21.3	APP-235	Environmental Statement Appendix 21.3 - Aerial Photography and Historic Map Regression Addendum	A	September 2022
6.3.21.4	APP-236	Environmental Statement Appendix 21.4 - Onshore Substation Setting Assessment	A	September 2022
6.3.21.4.1	APP-237	Environmental Statement Appendix 21.4 - Annex 21.4.1 - Onshore Substation Setting Assessment Screening Tables	A	September 2022
6.3.21.5	APP-239	Environmental Statement Appendix 21.5 - Offshore Infrastructure Setting Assessment	A	September 2022
6.3.21.5.1	APP-240	Environmental Statement Appendix 21.5.1 - Annex 21.5.1 - Offshore Infrastructure Setting Assessment Screening Tables	A	September 2022
6.3.21.6	APP-253	Environmental Statement Appendix 21.6 - Priority Archaeological Geophysical Survey (Part 1 of 5)	A	September 2022
6.3.21.6	APP-254	Environmental Statement Appendix 21.6 - Priority Archaeological Geophysical Survey (Part 2 of 5)	A	September 2022
6.3.21.6	APP-255	Environmental Statement Appendix 21.6 - Priority Archaeological Geophysical Survey (Part 3 of 5)	A	September 2022
6.3.21.6	APP-256	Environmental Statement Appendix 21.6 - Priority Archaeological Geophysical Survey (Part 4 of 5)	A	September 2022
6.3.21.6	APP-257	Environmental Statement Appendix 21.6 - Priority Archaeological	A	September 2022

		Geophysical Survey (Part 5 of 5)		
6.3.21.7	APP-258	Environmental Statement Appendix 21.7 - Archaeological and Geoarchaeological Monitoring Assessment	A	September 2022
6.3.22.1	APP-259	Environmental Statement Appendix 22.1 - Construction Dust and Fine Particulate Matter Assessment Methodology	A	September 2022
6.3.22.2	APP-260	Environmental Statement Appendix 22.2 - Air Quality Assessment Traffic Data	A	September 2022
6.3.22.3	APP-261	Environmental Statement Appendix 22.3 - Air Quality Background Pollutant Concentrations	A	September 2022
6.3.22.4	APP-262	Environmental Statement Appendix 22.4 - Designated Ecological Sites and Critical Level and Load Values in the Air Quality Study Area	A	September 2022
6.3.22.5	APP-263	Environmental Statement Appendix 22.5 - Air Quality Ecological Receptor Assessment Tables	A	September 2022
6.3.23.1	APP-264	Environmental Statement Appendix 23.1 - Baseline Noise Survey	A	September 2022
6.3.23.2	APP-265	Environmental Statement Appendix 23.2 - Road Traffic Noise Assessment	A	September 2022
6.3.23.3	APP-266	Environmental Statement Appendix 23.3 - Construction Noise Assessment	A	September 2022
6.3.23.4	APP-267	Environmental Statement Appendix 23.4 - Onshore Substation Operational Noise Assessment	A	September 2022
6.3.24.1	APP-268	Environmental Statement Appendix 24.1 - Transport Assessment	A	September 2022
6.3.24.1.1	APP-269	Environmental Statement Appendix 24.1.1 - Transport Assessment Annexes	A	September 2022
6.3.24.2	APP-270	Environmental Statement Appendix 24.2 - Abnormal Indivisible Load (AIL) Study	A	September 2022

6.3.24.3	APP-271	Environmental Statement Appendix 24.3 - Pedestrian Delay Assessment	A	September 2022
6.3.24.4	APP-272	Environmental Statement Appendix 24.4 - Cumulative Traffic Flows	A	September 2022
6.3.24.5	APP-273	Environmental Statement Appendix 24.5 - Interaction Between Impacts	A	September 2022
6.3.25.1	APP-275	Environmental Statement Appendix 25.1 - Seascape and Visual Impact Assessment Annexes	A	September 2022
6.3.26.1	APP-276	Environmental Statement Appendix 26.1 - Landscape and Visual Impact Assessment Annexes	A	September 2022
6.3.27.1	APP-277	Environmental Statement Appendix 27.1 – Socio-Economics Construction Costs and Sourcing Assumptions Note	A	September 2022
6.3.27.2	APP-278	Environmental Statement Appendix 27.2 – Socio-Economics and Tourism Technical Baseline	A	September 2022
6.3.27.3	APP-279	Environmental Statement Appendix 27.3 – Socio-Economics Impact Assessment	A	September 2022
6.3.28.1	APP-280	Environmental Statement Appendix 28.1 - Sheringham and Dudgeon Extension Projects EMF Assessment	A	September 2022
6.3.28.2	APP-280	Environmental Statement Appendix 28.2 - Health Baseline Statistics	A	September 2022
13.2	REP3-089	Collision Risk Modelling (CRM) Updates (EIA Context) Technical Note	B	May 2023
13.5	REP3-093	Marine Processes Technical Note (Revision B) (Clean)	B	May 2023
14.28	REP2-049	Auk Construction Phase Displacement Assessment (EIA Context) Technical Note	A	March 2023
14.31	REP3-097	Addendum to the Flood Risk Assessment	B	May 2023
14.32	REP2-053	Addendum to Environmental Statement	A	March 2023

		Chapter 20 Onshore Ecology and Ornithology		
14.34	REP5-045	Onshore Substation Hydraulic Modelling Report	C	June 2023
16.14	TBC	Marine Mammals Technical Note and Addendum	B	July 2023
17.2	AS-063	Supplemental Environmental Information to support the Applicant's material change request	A	April 2023
19.21	REP5-063	Gannet and Auk Cumulative Displacement Updates Technical Note	A	June 2023
Other documents				
9.3	REP3-056	Design and Access Statement	B	May 2023
9.4	REP1-013	Draft Marine Mammal Mitigation Protocol	B	February 2023
9.5	TBC	Offshore in Principle Monitoring Plan	C	July 2023
9.6	APP-290	In Principle Site Integrity Plan for the Southern North Sea Special Area of Conservation	A	September 2022
9.7	TBC	Outline Cromer Shoal Chalk Beds Marine Conservation Zone Cable Specification, Installation And Monitoring Plan	B	July 2023
9.8	TBC	Outline Fisheries Liaison and Co-existence Plan	B	July 2023
9.9	REP3-058	Outline Offshore Operations and Maintenance Plan	C	May 2023
9.10	TBC	Outline Project Environmental Management Plan	D	July 2023
9.11	APP-298	Outline Written Scheme of Investigation (Offshore)	A	September 2022
9.12	APP-299	Outline Marine Traffic Monitoring Plan	A	September 2022
9.16	REP5-027	Outline Construction Traffic Management Plan	D	June 2023
9.17	TBC	Outline Code of Construction Practice	G	July 2023
9.18	REP5-031	Outline Landscape Management Plan	D	June 2023
9.19	TBC	Outline Ecological Management Plan	E	July 2023
9.20	REP3-070	Outline Operational Drainage Strategy	C	May 2023

9.21	REP2-031	(Onshore Substation) Outline Written Scheme of Investigation (Onshore)	C	March 2023
9.22	APP-309	Outline Public Rights of Way Strategy	A	September 2022
9.23	REP3-072	Outline Skills and Employment Plan	B	May 2023
<u>9.24</u>	<u>REP8-021</u>	<u>Schedule of Mitigation and Mitigation Routemap</u>	<u>B</u>	<u>July 2023</u>

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises the construction, operation and maintenance of two offshore generating stations located in the North Sea approximately 13.6km and 24.8km from the Norfolk coast together with associated development. The Order authorises the compulsory purchase of land and rights in land and the right to use land and to override easements and other rights.

This Order also grants deemed marine licences under Part 4 of the Marine and Coastal Access Act 2009 in connection with the wind farms. The marine licences impose conditions in connection with the deposits and works for which they grant consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 38 (*certification of plans and documents, etc.*) of this Order may be inspected free of charge at the offices of Norfolk County Council, County Hall, Martineau Lane, Norwich, Norfolk, NR1 2DH.